



भारत का राजपत्र

The Gazette of India

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

साप्ताहिक
WEEKLY

सं. 30] नई दिल्ली, जुलाई 22—जुलाई 28, 2012, शनिवार/आषाढ 31—श्रावण 6, 1934
No. 30] NEW DELHI, JULY 22—JULY 28, 2012, SATURDAY/ASADHA 31—SHRAVANA 6, 1934

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

(सीमा-शुल्क एवं केन्द्रीय उत्पाद शुल्क, नागपुर जोन)

नागपुर, 30 मई, 2012

सं. 01/2012-सीमा-शुल्क (एन.टी.)

का.आ. 2414.—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग द्वारा सीमा-शुल्क अधिनियम, 1962 की धारा 152 की उप-धारा (a) के अधीन जारी यथा संशोधित अधिसूचना सं. 33/94 -सीमा-शुल्क (एन.टी.) दिनांक 1 जुलाई, 1994, सहप्रित अधिसूचना सं. 14/2002 सीमा-शुल्क (एन.टी.) दिनांक 7 मार्च, 2002, के तहत प्रदत्त शक्तियों का प्रयोग करते हुए, मैं, श्रीमती जगजीत पवाड़िया, मुख्य आयुक्त, सीमा-शुल्क एवं केन्द्रीय उत्पाद शुल्क, नागपुर जोन, नागपुर एतद्वारा “महाराष्ट्र राज्य के गांव पांडवा, तहसील एवं जिला वर्धा” को सीमा-शुल्क अधिनियम, 1962 की धारा 3 के अन्तर्गत वे अरहाऊसिंग (भांडागारण) स्टेशन घोषित करती हूँ।

[फा. सं. VIII(सीमा शुल्क) 17-15/सीसीयू/एन जेड/12]

श्रीमती जगजीत पवाड़िया, मुख्य आयुक्त

MINISTRY OF FINANCE

(Department of Revenue)

(OFFICE OF THE CHIEF COMMISSIONER,
CUSTOMS & CENTRAL EXCISE, NAGPUR ZONE)

Nagpur, the 30th May, 2012

No. 01/2012-Cumtoms (N.T.)

S.O. 2414.—In exercise of the powers conferred by Notification No. 33/94-Customs (N.T.) dated 1st July, 1994, as amended, of the Government of India, Ministry of Finance, Department of Revenue, issued under clause (a) of Section 152 of the Customs Act, 1962, read with Notification No. 14/2002-Customs (N.T.) dated 7th March, 2002, as amended, I, Smt. Jagjit Pavadia, Chief Commissioner of Customs & Central Excise, Nagpur Zone, Nagpur hereby declare “Village Mandva, Taluka & District Wardha in the State of Maharashtra” to be a Warehousing Station under Section 9 of the Customs Act, 1962.

[F. No. VIII (Cus) 17-15/CCU/NZ/12]

Smt. JAGJIT PAVADIA, Chief Commissioner

(कार्यालय मुख्य आयकर आयुक्त)

जयपुर, 16 जुलाई, 2012

सं. 04/2012-13

का.आ. 2415.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43वां) की धारा 10 के खण्ड (23 सी) की उप-धारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2011-12 एवं आगे के लिए कथित धारा के उद्देश्य से “अलंकार सोयायटी फॉर हायर एजुकेशन, बिशनावाला, पोस्ट मीनावाला, जयपुर” को स्वीकृति देते हैं।

2. बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उप-खण्ड (23 सी) की उप-धारा (vi) के प्रावधानों के अनुरूप कार्य करे।
[क्रमांक: मुआआ/अआआ/(मु)/जय/10(23सी)(vi)/2012-13/2088]

ब्रजेश गुप्ता, मुख्य आयकर आयुक्त

(OFFICE OF THE CHIEF COMMISSIONER OF INCOME TAX)

Jaipur, the 16th July, 2012

No. 04/2012-13

S.O. 2415.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves “Alankar Society for Higher Education, Bishnawala, Post-Meenawala, Jaipur” for the purpose of said Section from A.Y. 2011-12 and onwards.

2. Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CCIT/JPR/Addl. CIT (Hqrs.)/10(23C)(vi)/2012-13/2088]

BRIJESHI GUPTA, Chief Commissioner of Income-tax

(केन्द्रीय उत्पाद शुल्क एवं सीमा-शुल्क बोर्ड)

नई दिल्ली, 16 जुलाई, 2012

का.आ. 2416.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (1) के अनुसरण में राजस्व विभाग, केन्द्रीय उत्पाद-शुल्क एवं सीमा-शुल्क बोर्ड के निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है,

को अधिसूचित करती है :—

1. केन्द्रीय उत्पाद शुल्क एवं सेवाकर आयुक्तालय,
143, न्यू बाराद्वारी, साकची, जमशेदपुर

[फा. सं. ई-11017/1/2012-हिंदी-2]

चंद्र भान नारनौली, निदेशक (राजभाषा)

(Central Board of Excise and Customs)

New Delhi, the 16th July, 2012

S.O. 2416.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following office of the Department of Revenue, Central Board of Excise & Customs, whereof more than 80% of the staff have acquired the working knowledge of Hindi:

1. Office of the Commissionerate of Central Excise and Service Tax, 143, New Baradwari, Sakchi, Jamedshedpur.

[F. No. E-11017/1/2012-Hindi-II]

CHANDRA BHAN NARNAULI, Director (OL)

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 18 जुलाई, 2012

का.आ. 2417.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 9 के उप-खण्ड (1) और (2) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप धारा (3) के खण्ड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा बैंक ऑफ इंडिया के विशेष सहायक श्री एंटोनियो मैक्सीमैनो पेरेरा (जन्म तिथि 12-5-1959) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा बैंक ऑफ इंडिया के कर्मकार कर्मचारी के रूप में उनके पदभार छोड़ देने तक अथवा अगले आदेशों तक, इनमें से जो भी पहले हो बैंक ऑफ इंडिया के निदेशक मण्डल में कर्मकार कर्मचारी निदेशक के रूप में नियुक्त करती है।

[फा. सं. 9/25/2009-बीओ-1]

विजय मल्होत्रा, अवर सचिव

(Department of Financial Services)

New Delhi, the 18th July, 2012

S.O. 2417.—In exercise of the powers conferred by clause (e) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with Sub-clause (1) and (2) of Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central

Government hereby appoints Shri Antonio Maximiano Pereira, (DoB : 12-5-1959), Special Assistant, Bank of India, as Workmen Employee Director on the Board of Directors of Bank of India, for a period of three years with effect from the date of notification of his appointment or until he ceases to be an Workmen Employee of Bank of India or until further orders, whichever is the earliest.

[F. No. 9/25/2009-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 20 जुलाई, 2012

का.आ. 2418.—भारतीय स्टेट बैंक (समनुषंगी बैंक) अधिनियम, 1959 की धारा 25 की उप-धारा (1) के खण्ड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री जितेन्द्र कुमार मैहन, अवर सचिव, वित्तीय सेवाएं विभाग वित्त मंत्रालय, नई दिल्ली को श्री पी. विनायगम के स्थान पर, तत्काल प्रभाव से और अगले आदेश होने तक, स्टेट बैंक ऑफ त्रावणकोर के निदेशक मण्डल में निदेशक के रूप में नामित करती है।

[फा. सं. 6/3/2012-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 20th July, 2012

S.O. 2418.—In exercise of the powers conferred by clause (e) of sub-section (1) of Section 25 of the State Bank of India (Subsidiary Banks) Act, 1959, the Central Government, hereby nominates Shri Jitendar Kumar Mehan, Under Secretary, Department of Financial Services, Ministry of Finance, New Delhi as a Director on the Board of Directors of State Bank of Travancore with immediate effect and until further orders vice Shri P. Vinayagam.

[F. No. 6/3/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 20 जुलाई, 2012

का.आ. 2419.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा, नीचे दी गई सारणी के कालम 2 में विनिर्दिष्ट व्यक्तियों को उक्त सारणी के कालम 3 में विनिर्दिष्ट व्यक्तियों के स्थान पर इसके कालम (1) में विनिर्दिष्ट बैंकों के निदेशक के रूप में तत्काल प्रभाव से और अगले आदेश होने तक नामित करती है :—

सारणी		
(1)	(2)	(3)
यूनियन बैंक ऑफ इंडिया	डॉ. ए. भट्टाचार्य, संयुक्त सचिव, वित्तीय सेवाएं विभाग	श्री राजेश खुल्लर
पंजाब एंड सिध बैंक	श्री रजत सच्चर, आर्थिक सलाहकार, वित्तीय सेवाएं विभाग	डॉ. ए. भट्टाचार्य
बैंक ऑफ महाराष्ट्र	श्री अतीश सिंह, निदेशक, वित्तीय सेवाएं विभाग	श्री वी. पी. भारद्वाज

[फा. सं. 6/3/2012-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 20th July, 2012

S.O. 2419.—In exercise of the powers conferred by clause (b) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominate the persons specified in column 2 of the table below as Directors of the Banks specified in column 1 thereof in place of the persons specified in column 3 of the said table, with immediate effect and until further orders:—

TABLE

(1)	(2)	(3)
Union Bank of India	Dr. A. Bhattacharya, Joint Secretary, Department of Financial Services	Shri Rajesh Khullar
Punjab & Sind Bank	Shri Rajat Sachar, Economic Advisor, Department of Financial Services	Dr. A. Bhattacharya
Bank of Maharashtra	Shri Ateesh Singh, Director, Department of Financial Services	Shri V.P. Bharadwaj

[F.No. 6/3/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

परमाणु ऊर्जा विभाग

(उद्योग एवं खनिज अनुभाग)

मुंबई, 16 जुलाई, 2012

का. आ. 2420.—सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों के प्रयोग करते हुए, केंद्र सरकार एवं द्वारा एक राजपत्रित अधिकारी, क्षेत्रीय निदेशक, मध्यवर्तीय क्षेत्र, परमाणु खनिज अन्वेषण एवं अनुसंधान निदेशालय (एएमडी), सोपोडब्ल्यूडी बंगला नं. 16/बी, सिविल लाइन्स, नागपुर को गाँव-प्रतापपुर, जिला सरगुजा, छत्तीसगढ़ की सर्वे सं. 881 में 2.49 हेक्टेयर माप की गावठाण भूमि (धार्मी-कैप के रूप में जानी जाने वाली) के भाग के रूप में ज्ञात संपत्ति के संबंध में उक्त अधिनियम के प्रयोगों हेतु संपदा अधिकारी के रूप में नियुक्त करती है।

[सं. 12/5(10)/2009-आईएंडएम(एएमडी)/7265]

जी. आर. पिल्लै, अवर सचिव

DEPARTMENT OF ATOMIC ENERGY

(I & M Section)

Mumbai, the 16th July, 2012

S.O. 2420.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the Regional Director, Central Region, Atomic Minerals Directorate for Exploration & Research (AMD), Department of Atomic Energy, CPWD Bungalow No. 16/B, Civil Lines, Nagpur, a Gazetted Officer to be the Estate Officer for the purposes of the said Act in respect of the property known as portion of Gowthan land admeasuring 2.49 Hectares in Survey No. 881 (Known as Dhabi-Camp) at Village-Pratappur, District Surguja, Chhattisgarh.

[No. 12/5(10)/2009-I & M(AMD)/7265]

G.R.PILLAI, Under Secy.

वाणिज्य और उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 16 जुलाई, 2012

का. आ. 2421.—केन्द्रीय सरकार, नियांत्रित (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उपनियम (2) के साथ परिवर्तित, नियांत्रित (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एसन एंड कम्पनी, नं. 73 (प्रथम तल) म्हैट, बालाजी नगर (लुकास-टीवीएस के सामने), पाडी, चेन्नई- 600 050 खनिज और अयस्क, समूह -I का नियांत्रित (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण के क्रियान्वयन में उनके द्वारा अपनाई गई पद्धति की जांच करने के लिए इस निमित नियांत्रित निरीक्षण परिषद द्वारा नामनिर्देशित अधिकारियों को पर्याप्त सुविधाएँ देगी, और

चेन्नई- 600 050 को इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए, भारत सरकार के वाणिज्य मंत्रालय, की अधिसूचना सं. का.आ. 3975 तारीख 20 दिसम्बर, 1965 के साथ उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-II अर्थात् लौह अयस्क और मैग्नीज और समूह-II। अर्थात् मैग्नीज डॉयक्साइड, फेल्डस्पार, रेड आयरन आक्साइड, येल्लो ओर्च, केलसिंड मैग्नेसाइड, स्टेटाइट (टाल्क) बेराइट्स खनिजों और अयस्कों को निम्नलिखित शर्तों के अधीन चेन्नई में उक्त खानजों में अयस्कों का नियांत्रित सूचीबद्ध करने के लिए एक अधिकरण के रूप में मान्यता देती है, अर्थात् :-

- (i). मैसर्स एसन एंड कम्पनी, नं. 73 (प्रथम तल) कुपुस्वामी स्ट्रीट, बालाजी नगर (लुकास-टीवीएस के सामने), पाडी, चेन्नई- 600 050 खनिज और अयस्क, समूह -I का नियांत्रित (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण के क्रियान्वयन में उनके द्वारा अपनाई गई पद्धति की जांच करने के लिए इस निमित नियांत्रित निरीक्षण परिषद द्वारा नामनिर्देशित अधिकारियों को पर्याप्त सुविधाएँ देगी, और
- (ii). मैसर्स एसन एंड कम्पनी, नं. 73 (प्रथम तल) कुपुस्वामी स्ट्रीट, बालाजी नगर (लुकास-टीवीएस के सामने), पाडी, चेन्नई- 600 050 इस अधिसूचना के अधीन अपने कृत्यों के पालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण) नियांत्रित निरीक्षण परिषद द्वारा समय-समय पर लिखित में दिए गए ऐसे निर्देशों से आबद्ध होगी।

[फा. सं. 4/5/2012-नियांत्रित निरीक्षण]

डी. एस. ढेसी, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 16th July, 2012

S.O. 2421.—In exercise of the powers conferred by sub-section 1 of Section 7 of the Export (Quality Central Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Essen & Co. No. 73(1st Floor), Kuppusamy Street, Balaji Nagar (opp: Lucas-TVS), PADI, Chennai-600050, as an agency for a period of three years from the date of publication of this notification, for the inspection of Minerals and Ores Group-I, namely, Iron Ore and Manganese and Group II, namely, Manganese dioxide, Feldspar, red iron oxide, yellow Ochre, Calcined Manganeseite, Steatite (talc), Barytes specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce number S.O. 3975, dated the 20th December, 1965, prior to export of the said

Minerals and Ores at Chennai, subject to the following conditions, namely :—

- (i) That M/s. Essen & Co., No. 73(1st Floor), Kuppusamy Street, Balaji Nagar (opp: Lucas-TVS), PADI, Chennai-600 050, shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in carrying out the inspection under rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965; and
- (ii) That M/s. Essen & Co., No. 73, (1st Floor), Kuppusamy Street, Balaji Nagar, (opp: Lucas-TVS), PADI, Chennai- 600 050, in the performance of their function under this notification shall be bound by such directions as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 4/5/2012-Export Inspection]

D. S. DHESI, Jt. Secy.

नई दिल्ली, 16 जुलाई, 2012

का. आ. 2422.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उपनियम (2) के साथ पठित, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स मित्रा एस.के. प्राइवेट लि. हाउसिंग बोर्ड कालोनी, एचबी 44, मधुबन, पारादीप, जिला, जगतसिंगपुर, उड़ीसा -754142 को इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए, भारत सरकार के वाणिज्य मंत्रालय, को अधिसूचना सं. का.आ. 3975 तारीख 20 दिसम्बर, 1965 के साथ उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I अर्थात् लौह अयस्क मैंगनीज अयस्क, फैरो मैंगनीज स्लेग समूह-II अर्थात् मैंगनीज डॉयआक्साइड क्रोम अयस्क का निम्नलिखित शर्तों के अधीन रहते हुए उक्त खनिजों और अयस्कों के निर्यात से पूर्व पारादीप में निरीक्षण करने के लिए एक अभिकरण के रूप में पूर्व प्रदान करती है, अर्थात् :-

- (i) मैसर्स मित्रा एस.के. प्राइवेट लि. हाउसिंग बोर्ड कालोनी, एचबी 44, मधुबन, पारादीप, जिला, जगतसिंगपुर, उड़ीसा - 754142 खनिजों और अयस्कों, समूह -I का निर्यात (निरीक्षण) नियम, 1964 के नियम 4 के अधीन निरीक्षण के क्रियाव्यवन में उनके द्वारा अपनाई गई निरीक्षण की पद्धति की जांच करने के लिए इस निमित निर्यात निरीक्षण परिषद द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और
- (ii) मैसर्स मित्रा एस.के. प्राइवेट लि. हाउसिंग बोर्ड कालोनी, एचबी 44, मधुबन, पारादीप, जिला, जगतसिंगपुर, उड़ीसा - 754142 इस अधिसूचना के अधीन अपने कृत्यों के पालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण) निर्यात निरीक्षण परिषद

द्वारा समय-समय पर लिखित में दिए गए ऐसे निदेशों से आबद्ध होगी।

[फा. सं. 4/7/2012-निर्यात निरीक्षण]

डी. एस. डेसी, संयुक्त सचिव

New Delhi, the 16th July, 2012

S.O. 2422.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognizes M/s. Mitra S.K. (P) Ltd. Housing Board Colony, HB44, Madhuban, Paradip, District: Jagatsinghpur, Orissa-754142 as an agency for a period of three years from the date of publication of this notification for the inspection of Minerals and Ores Group I namely Iron ores, manganese ores, ferro manganese slag Group II Manganese Dioxide, chrome ore, specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce number S.O. 3975, dated the 20th December, 1965, prior to export of the said Minerals and Ores at Paradip, subject to the following conditions, namely :—

- (i) That M/s. Mitra S.K. (P) Ltd. Housing Board Colony, HB44, Madhuban, Paradip, District: Jagatsinghpur, Orissa-754142, shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in carrying out the inspection under rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965; and
- (ii) That M/s. Mitra S.K. (P) Ltd. Housing Board Colony, HB44, Madhuban, Paradip, District: Jagatsinghpur, Orissa-754142, in the performance of their function under this notification shall be bound by such directions as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 4/7/2012-Export Inspection]

D. S. DHESI, Jt. Secy.

नई दिल्ली, 18 जुलाई, 2012

का. आ. 2423.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में वाणिज्य विभाग, के अधीन निम्नलिखित कार्यालय को एतद्वारा अधिसूचित करती है, जिसके 80 प्रतिशत से अधिक कर्मचारीवृद्ध ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है :—

चाय बोर्ड भारत, मुख्यालय

14, बिप्लबी ट्रैलोक्य महाराज

सरणी (ब्रेबॉन रोड)

कोलकाता- 700 001

पश्चिम बंगाल

[सं. ई. 11013/1/2008-हिंदी]

श्रीमती देवकी, निदेशक (राजभाषा)

New Delhi, the 18th July, 2012

S.O. 2423.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following office under Department of Commerce, whereof more than 80% staff have acquired a working knowledge of Hindi :—

Tea Board India, Headquarters
14, Biplabi Trelokya Maharaj Sarani
(Brabourne Road)
Kolkata, 700001,
West Bengal

[No. E-11013/1/2008-Hindi]

Smt. DEVKI, Director (OL)

उत्तर पूर्वी विकास मंत्रालय

(उत्तर पूर्वी परिषद सचिवालय)

शिलांग, 27 अप्रैल, 2012

का. आ. 2424.—सक्षम प्राधिकारी के अनुमोदन के आलोक में श्री एस. एल. बैद्य, अनुभाग अधिकारी, उत्तर पूर्वी परिषद सचिवालय, शिलांग को तर्दह आधार पर सहायक सचिव, वेतन बैंड-2, पद पर वेतनमान 15600—39100 रु. + ग्रेड वेतन 6600 रु. एवं मंहगाई भत्ता तथा अन्य भत्ते जो समय-समय पर मिलता है, तत्काल प्रभाव से जब तक नियमित पदोन्नति हो या दिनांक 31-12-2012 को सरकारी सेवा से निवृत होने की तिथि, जो भी पहले हो, तक पदोन्नत किया जाता है।

[सं. एन.ई.सी./ए.डी.एम./34/2003]

शान्तनु मित्र, निदेशक (प्र. एवं यो.)

MINISTRY OF DEVELOPMENT OF NORTH EASTERN REGION
(North Eastern Council Secretariat)

Shillong, the 27th April, 2012

S.O. 2424.—Consequent upon the approval of the Competent Authority, Shri S.L. Baidya, Section Officer, NEC Secretariat, Shillong, is hereby promoted to the post of Assistant Secretary on ad-hoc basis in the PB-2 Rs. 15600—39100 with Grade Pay of Rs. 6600 plus D.A. and other allowances as admissible from time to time, with immediate effect till the date of his regular promotion to the post or the date of his superannuation from the Government service on 31-12-2012, whichever is earlier.

[No.NEC/ADM/34/2003]

S. MITRA, Director (Admn. & Plg.)

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

नई दिल्ली, 14 जून, 2012

का. आ. 2425.—केन्द्र सरकार दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उप-धारा (2) द्वारा प्रदत्त

शक्तियों का प्रयोग करते हुए, भारतीय दंत चिकित्सा परिषद से परामर्श करने के बाद, एतद्वारा उक्त अधिनियम की अनुसूची के भाग-I में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अनुसूची में—

2. “दि तमिलनाडु डा. एमजीआर मेडिकल विश्वविद्यालय, चेन्नई” द्वारा प्रदत्त दंत चिकित्सा डिग्रियों की मान्यता के संबंध में दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-I में क्रम संख्या 34 के समक्ष कालम 2 एवं 3 की मौजूदा प्रविष्टियों में निम्नलिखित प्रविष्टियां अन्तःस्थापित की जाएंगी, अर्थात् :—

“XXIV सीएसआई कालेज आफ डेंटल साइंसेस एंड रिसर्च, मदुरै

बैचलर आफ डेंटल सर्जरी

(यदि 19-8-2011

को अथवा उसके पश्चात्

प्रदान की गई हो)

बीडीएस, दि तमिलनाडु डा.

एमजीआर

मेडिकल विश्वविद्यालय, चेन्नई”

[सं. वी. 12017/62/2006-डीई]

सूबे सिंह, उप सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 14th June, 2012

S.O. 2425.—In exercise of the powers conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely:—

2. In the existing entries of column 2 and 3 against Serial No. 34, in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to recognition of dental degrees awarded by the Tamil Nadu Dr. M.G.R. Medical University, Chennai the following entries shall be inserted thereunder:—

“XXIV. CSI College of Dental Sciences & Research, Madurai

Bachelor of Dental Surgery
(if granted on or after
19-8-2011)

BDS, the Tamil Nadu
Dr. M.G.R. Medical
University,Chennai”.

[F.No.V. 12017/62/2006-DE]

SUBE SINGH, Dy. Secy.

नई दिल्ली, 21 जून, 2012

का. आ. 2426.—केन्द्र सरकार दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय दंत चिकित्सा परिषद से परामर्श करने के बाद, एतद्वारा उक्त अधिनियम की अनुसूची के भाग-I में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अनुसूची में—

2. "डॉ. बी.आर. अम्बेडकर विश्वविद्यालय, आगरा" द्वारा प्रदत्त दंत चिकित्सा डिप्लियों की मान्यता के संबंध में दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-I में डी.जे. कालेज आफ डेंटल साइंसिज एंड रिसर्च, मोदीनगर के संबंध में क्रम संख्या 58 के समक्ष कालम 2 एवं 3 की मौजूदा प्रविष्टियों में निम्नलिखित प्रविष्टियां अन्तःस्थापित की जाएंगी, अर्थात् :-

"(ii) मास्टर आफ डेंटल सर्जरी

ओरल मेडिसिन एवं एमडीएस (ओरल मेडिसिन एवं रेफियोलोजी रेफियोलोजी), डॉ. बी.आर. अम्बेडकर (यदि 1-3-2012 को अथवा विश्वविद्यालय, आगरा" उसके पश्चात् प्रदान की गई हो)

[सं. वी. 12017/76/2005(भा)-डॉ]

अनिता त्रिपाठी, अवर सचिव

New Delhi, the 21st June, 2012

S.O. 2426.—In exercise of the powers conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely:—

2. In the existing entries of column 2 and 3 against Serial No. 58, in respect of D.J.College of Dental Sciences & Research, Modinagar in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to recognition of dental degrees awarded by Dr. Bhim Rao Ambedkar University, Agra, the following entries shall be inserted thereunder:—

"(ii) Master of Dental Surgery

Oral Medicine & Radiology
(if granted on or after 1-3-2012) MDS(Oral Medicine and Radiology), Dr. B.R. Ambedkar University, Agra"

[No.V. 12017/76/2005(Pt)-DE]

ANITA TRIPATHI, Under Secy.

नई दिल्ली, 25 जून, 2012

का. आ. 2427.—केन्द्र सरकार दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय दंत चिकित्सा परिषद से परामर्श करने के बाद, एतद्वारा उक्त अधिनियम की अनुसूची के भाग-I में निम्नलिखित संशोधन करती है अर्थात् :-

उक्त अनुसूची में -

2. "डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आन्ध्र प्रदेश" द्वारा प्रदत्त दंत चिकित्सा डिप्लियों की मान्यता के संबंध में दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची

के भाग-I में विष्णु डेंटल कालेज, भीमावरम, आन्ध्र प्रदेश के संबंध में क्रम संख्या 50 के समक्ष कालम 2 एवं 3 की मौजूदा प्रविष्टियों में निम्नलिखित प्रविष्टियां अन्तःस्थापित की जाएंगी, अर्थात् :-

"यास्टर आफ डेंटल सर्जरी

पेरियोडोन्टिक्स एमडीएस (पेरियो), डॉ.
(यदि 9-5-2012 को अथवा एनटीआर स्वास्थ्य विज्ञान उसके पश्चात् प्रदान की गई हो) विश्वविद्यालय, विजयवाड़ा

ओरल मेडिसिन एवं एमडीएस (ओरल मेडिसिन),
रेफियोलोजी डॉ. एनटीआर स्वास्थ्य विज्ञान
(यदि 9-5-2012 को अथवा विश्वविद्यालय, विजयवाड़ा
उसके पश्चात् प्रदान की गई हो)

ओरल पैथोलोजी एवं एमडीएस (ओरल पैथोलोजी),
माइक्रोबायोलोजी डॉ. एनटीआर स्वास्थ्य विज्ञान
(यदि 9-5-2012 को अथवा विश्वविद्यालय, विजयवाड़ा
उसके पश्चात् प्रदान की गई हो)

[सं. वी. 12017/16/2007-डॉ]

अनिता त्रिपाठी, अवर सचिव

New Delhi, the 25th June, 2012

S.O. 2427.—In exercise of the powers conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely:—

2. In the existing entries of column 2 and 3 against VIII of Serial No. 50, in respect of Vishnu Dental College Bhimavaram, Andhra Pradesh, in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to recognition of dental degrees awarded by Dr. N.T.R. University of Health Sciences, Vijayawada, Andhra Pradesh, the following entries shall be inserted thereunder:—

" Master of Dental Surgery

Periodontology MDS(Porio.) Dr.N.T.R.
(if granted on or after University of Health
9-5-2012) Sciences, Vijayawada

Oral Medicine & Radiology MDS (Oral Medicine), Dr.
(if granted on or after N. T.R. University of Health
9-5-2012) Sciences, Vijayawada

Oral Pathology & MDS (Oral Pathology), Dr.
Microbiology N. T. R. University of Health
(if granted on or after Sciences, Vijayawada"

[No.V. 12017/16/2007-DE]
ANITA TRIPATHI, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 4 जुलाई, 2012

का. आ. 2428.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानकों का विवरण नीचे अनुसूची में दिया गया हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
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(1)	(2)	(3)	(4)
1.	आई एस 2419 : 2012/आईसी 61554 : 1999 पैनल अध्यारोपित उपस्कर-विद्युत मापक यंत्र – पैनल अध्यारोपण के आयाम (दूसरा पुनरीक्षण)	—	4 जुलाई, 2012
2.	आई एस 14570 : 2012/आईसी 60688 : 2002 ए.सी. विद्युत मात्राओं अथवा एनालॉग या डीजिटल संकातों को परिवर्तित करने के लिए विद्युत मापन ट्रास डयूसर (दूसरा पुनरीक्षण)	—	4 जुलाई, 2012
3.	आई एस/आईसी 61557 : 1 : 2007 1000 वोल्ट ए सी और 1500 वोल्ट डीसी तक के अन्य वोल्टता वितरण तंत्रों में विद्युत सुरक्षा-संरक्षी मापों को परीक्षण करने, माप करने या मॉनीटर करने का उपस्कर-भाग 1 : सामान्य अपेक्षाएं	—	4 जुलाई, 2012
4.	आई एस/आईसी 61557-2 : 2007 1000 वोल्ट ए सी और 1500 वोल्ट डीसी तक के अल्प वोल्टता वितरण तंत्रों में विद्युत सुरक्षा-संरक्षी मापों को परीक्षण करने, माप करने या मॉनीटर करने का उपस्कर-भाग 2 : विद्युतरोधक प्रतिरोधन	—	4 जुलाई, 2012
5.	आई एस/आईसी 61557-5 : 2007 1000 वोल्ट ए सी और 1500 वोल्ट डीसी तक के अल्प वोल्टता वितरण तंत्रों में विद्युत सुरक्षा-संरक्षी मापों को परीक्षण करने, माप करने या मॉनीटर करने का उपस्कर-भाग 5 : धू-सम्पर्क प्रतिरोध	—	4 जुलाई, 2012

इन भारतीय मानकों की प्रतियां, भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुरशाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूर्णे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 12/टी-8, टी-67, टी 68, टी-69, टी-49]

आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
(Department of Consumer Affairs)
(BUREAU OF INDIAN STANDARDS)

New Delhi, the 4th July, 2012

S. O. 2428.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 2419 : 2012/IEC 61544 : 1999 Panel Mounted Equipment - Electrical Measuring Instrument - Dimensions for Panel Mounting. (Second Revision)	—	4 July, 2012
2.	IS 14570 : 2012/IEC 60688 : 2002 Electrical Measuring transducers for Converting ac Electrical Quantities to Analogue or Digital Signals (First Revision)	—	4 July, 2012
3.	IS/IEC 61557-1 : 2007 Electrical Safety in Low Voltage Distribution Systems Up to 1000 V ac And 1500 V dc-Equipment for Testing, Measuring or Monitoring of Protective Measures - Part 1 : General Requirements	—	4 July, 2012
4.	IS/IEC 61557-2 : 2007 Electrical Safety in Low Voltage Distribution Systems Up to 1000 V ac And 1500 V dc-Equipment for Testing, Measuring or Monitoring of Protective Measures - Part 2 : Insulation Resistance	—	4 July, 2012
5.	IS/IEC 61557-5 : 2007 Electrical Safety in Low Voltage Distribution Systems Up to 1000 V ac And 1500 V dc-Equipment for Testing, Measuring or Monitoring of Protective Measures - Part 5 : Resistance to Earth	—	4 July, 2012

Copies of this standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bengaluru, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET 12/T-8, T-67, T-68, T-69, T-49]

R. K. TREHAN, Scientist 'E' & Head (Electrotechnical)

नई दिल्ली, 5 जुलाई, 2012

का.आ. 2429.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि सीएम/एल	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्ष	भा. मा.	भाग	अनु.	वर्ष
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	एल-9940497	1-6-2012	मै. आर्यन इण्टरप्राइसिस, प्लाट नं. 2, ब्लॉक 1, शिव दुर्गा विहार, जिला फरीदाबाद, (हरियाणा)	मोटरसाईकिल चालकों के लिए संरक्षी हैल्मेट	4151	—	—	1993
2.	एल-9940602	5-6-2012	मै. कारगिल पाइप्स, अटेली-कनीना रोड, बस स्टैंड के नजदीक, सलीमपुर, अटेली मण्डी, जिला महेन्द्रगढ़-123021 (हरियाणा)	सिंचाई उपस्कर- लेटरल्स सिंचाई के लिए पोलीइथीलीन पाइप्स	12786	—	—	1989
3.	एल-9940703	5-6-2012	मै. कारगिल पाइप्स, अटेली-कनीना रोड, बस स्टैंड के नजदीक, सलीमपुर, अटेली मण्डी, जिला महेन्द्रगढ़-123021 (हरियाणा)	सिंचाई उपस्कर- स्प्रिंकलर पाइप्स भाग 1 पोलीइथीलीन पाइप्स	14151	01	—	1999
4.	एल-9941503	11-6-2012	मै. एस आर एस ज्वैल्स, (ए यूनिट ऑफ एस आर एस लि.) प्लाट नं. ए-6, नहरू ग्राउंड, एन.आई.टी., जिला फरीदाबाद-121001 (हरियाणा)	स्वर्ण एवं स्वर्ण मिश्रधातुएं आभूषण/शिल्पकारी शुद्धता एवं मुहरंकन	1417	—	—	1999
5.	एल-9942097	13-6-2012	मै. परसराम मिनरल एक्वा, खेवट/खाता नं. 23/49, मुस्तिकिल नं. 15, किला नं. 8, गांव बहलपा, डाकघर रिठौज, सोहना, जिला गुडगांव-122103 (हरियाणा)	ऐकेजबन्द पेय जल (ऐकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	—	—	2004
6.	एल-9943406	21-6-2012	मै. जे.के. लक्ष्मी सीमेंट लि., गांव बाजितपुर, डाकघर झामरी, तहसील मातनहेल, जिला झज्जर-123305 (हरियाणा)	43 ग्रेड साधारण पोर्टलैंड सीमेंट	8112	—	—	1989

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
7.	एल 9944206	28-6-2012	मै. एल एस केबल इंडिया प्रा.लि., प्लॉट नं. 28-31, सेक्टर-5, फेस-II, जी सी बाबल, जिला रिवाड़ी-123501 (हरियाणा)	क्रासलिंकड पोलीइथीलीन रोधित तापसुधटट्य आवरित केबल थाग-1 1100 वोल्ट तक तथा सहित की कार्यकारी बोल्टता के लिए	7098	01	-	1988
8.	एल-9944307	28-6-2012	मै. एल एस केबल इंडिया प्रा.लि., प्लॉट नं. 28-31, सेक्टर-5, फेस-II, जी सी बाबल, जिला रिवाड़ी-123501 (हरियाणा)	क्रासलिंकड पोलीइथीलीन रोधित पीवीसी आवरित केबल थाग-2 3.3 के बी से 33 केबी तक तथा सहित की कार्यकारी बोल्टता के लिए	7098	02	-	1985

[सं. सीएमडी/13:11]

एस. के. खन्ना, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 5th July, 2012

S.O. 2429.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Lincences No. CM/L-	Grant Date	Name & Address of the Licensee	Title of the Standard	S. No.	Part.	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	L-9940497	1-6-2012	M/s. Aryan Enterprises, Plot No. 2, Block 1, Shiv Durga Vihar, Distt. Faridabad Haryana	Protective Helmets for Scooter & Motorcycle Riders	4151	-	-	1993
2.	L-9940602	5-6-2012	M/s. Kargil Pipes, Ateli-Kanina Road, Near Bus Stand, Salimpur, Ateli Mandi, Distt. Mahendragarh-123021 Haryana	Irrigation Equipment- Polyethylene Pipes for Irrigation Laterals	12786	-	-	1989
3.	L-9940703	5-6-2012	M/s. Kargil Pipes, Ateli-Kanina Road, Near Bus Stand, Salimpur, Ateli Mandi, Distt. Mahendragarh-123021 Haryana	Irrigation Equipment- Spinkler Pipes Part I : Polyethylene Pipes	14151	01	-	1999
4.	9941503	11-6-2012	M/s. SRS Jewells, (A Unit of SRS Ltd.) Plot No. A-6, Nehru Ground, N.I.T., Distt. Faridabad-121001 Haryana	Gold & Gold Alloys, Jewellery/Artefacts- Fineness and Marketing	1417	-	-	1999

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
5. L-9942097	13-6-2012	M/s. Parasram Mineral Aqua, Khewat/Khata No. 23/49, Mustkil No. 15, Killa No. 8, Village Behipa, P.O. Rithoj, Sohna, Distt. Gurgaon-122103 Haryana	Packaged Drinking Water (Other than Packaged Natural Mineral Water)	14543	—	—	2004	
6. L-9943406	21-6-2012	M/s J.K. Lakshmi Cement Ltd., Village Bajitpur, P.O. Jhamri, Tehsil Matanhail, Distt. Jhajjar-123305 Haryana	43 Grade Ordinary Portland Cement	8112	—	—	1989	
7. L-9944026	28-6-2012	M/s. L.S. Cable India Pvt. Limited, Plot No. 28-31, Sector-5, Phase-II, GC Bawal, Distt. Rewari-123501 Haryana	Crosslinked Polyethylene Insulated Thermoplastic Sheathed Cables, Pt. 1 for working voltage upto and including 1100 V	7098	01	—	1988	
8. L-9944307	28-6-2012	M/s. L.S. Cable India Pvt. Limited, Plot No. 28-31, Sector-5, Phase-II, GC Bawal, Distt. Rewari-123501 Haryana	Crosslinked Polyethylene Insulated PVC Sheathed Cable Pt. 2 for working voltage from 3.3 kV upto and including 33 kV	7098	02	—	1985	

[No. CMD/13:11]

S. K. KHANNA, Scientist 'F' & Head

नई दिल्ली, 11 जुलाई, 2012

का, आ. 2430.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए मानकों (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संशोधित भारतीय मानक की संख्या और वर्ष सं.	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि	
(1)	(2)	(3)	(4)
1. आई एस 3933 : 1966 चिकित्सा उपयोग के लिए गैस सिलिंडर और संबंधित उपकरण की रंग से पहचान	संशोधन नं. 1 जून 2012	30 जून, 2012	

इस संशोधन की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पूर्णे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को <http://www.standardsbis.in> द्वारा इंटरनेट पर खरीदा जा सकता है।

[संदर्भ : एम.ई.डी./जी-2:1]
जे.ऐ. सिद्धीकी, वैज्ञानिक 'एफ' एवं प्रमुख (यांत्रिक इंजीनियरिंग)

New Delhi, the 11th July, 2012

S. O. 2430.—In pursuance of clause (b) of sub-rule (1) of Rules 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
I.	IS 3933 : 1966 Colour identification of gas cylinders and related equipment intended for medical use	Amendment No. 1 June 2012	30 June 2012

Copies of this Amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bengaluru, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram. On-line purchase of Indian Standard can be made at : <http://www.standardsbis.in>.

[Ref: MED/G-2:1]

J. A. SIDDIQUI, Scientist 'F' & Head (Mechanical Engineering)

नई दिल्ली, 11 जुलाई, 2012

का. आ. 2431.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 16013:2012 वैल्डिड तार गैबियन (धातु चढ़ी या धातु चढ़ीत पी.वी.सी.चढ़ी) - विशिष्टि	—	30 जून 2012
2.	आई एस 16014:2012 यांत्रिक पद्धति से बुनी दोहरी ऐंटिल, घटकोणीय तार मैश गैबियन, रिवेट मैट्रेस एवं रॉक फाल नैटिंग (जस्तीकृत इस्पात तार अथवा पीवीसी चढ़ी जस्तीकृत इस्पात की तार)-विशिष्टि	—	30 जून 2012

इस भारतीय मानक की प्रतियां, भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को <http://www.standardsbis.in> द्वारा इंटरनेट पर खरीदा जा सकता है।

[संदर्भ : एम.ई.डी./जी-2:1]

जे. ए. सिद्दीकी, वैज्ञानिक 'एफ' एवं प्रमुख (यांत्रिक इंजीनियरिंग)

New Delhi, the 11th July, 2012

S. O. 2431.—In pursuance of clause (b) of sub-rule (1) of Rules 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. and Year of Indian Standards if any, Superseded by the New Indian Standards	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 16013:2012 Welded wire gabions (Metallic-coated or metallic-coated with PVC coating) – Specification	—	30 June, 2012
2.	IS 16014:2012 Mechanically woven, double-twisted, hexagonal wire mesh gabions, revet mattresses and rock fall netting (Galvanized steel wire or galvanized steel wire with PVC coating) – Specification	—	30 June, 2012

Copy of these Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram. On-line purchase of India Standard can be made at : <http://www.standardsbis.in>.

[Ref: MED/G-2:1]

J. A. SIDDIQUI, Scientist 'F' & Head (Mechanical Engineering)

नई दिल्ली, 17 जुलाई, 2012

का. आ. 2432.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एवं द्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह वे स्थापित हो गया है :—

अनुसूची

क्रम सं	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय स्थापित तिथि मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	
(1)	(2)	(3)	(4)
1.	आई एस 13340 (भाग 2) : 2012 1000 वॉट तक एवं सहित वोल्टता रेटिंग धारक एसी सिस्टम के स्वतः रोपी टाइप के शंट संधारित्र भाग 2 : काल प्रभावन परीक्षण, स्वतः रोपी परीक्षण एवं विनाशी परीक्षण (पहला पुनरोक्षण)	—	17 7-2012

इन भारतीय मानक की प्रतियां, भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 29/टी-16]
आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 17th July, 2012

S.O. 2432.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards, particulars of which is given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standards	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 13340 (Part 2) : 2012 Shunt Power Capacitors of the Self-healing type for A.C. systems having a rated voltage upto and including 1000 V Part 2 Ageing test, Self-healing test and Destruction test (First Revision)	—	17-7-2012

Copy of this Standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bengaluru, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: ET 29/T-16]

R. K. TREHAN, Scientist 'E' & Head (Electrotechnical)

कोयला मंत्रालय**आदेश**

नई दिल्ली, 23 जुलाई, 2012

का.आ. 2433.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 3063 तारीख 19 अक्टूबर, 2011, जो भारत के राजपत्र, भाग II, खंड 3, उप-खंड (ii), तारीख 29 अक्टूबर, 2011 में प्रकाशित होने पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और भूमि में या उस पर के सभी अधिकार (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) उक्त अधिनियम की धारा 10 की उप-धारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यांतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और, केन्द्रीय सरकार का यह समाधान हो गया है कि साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, डाकघर संख्या 60, जिला-बिलासपुर-495006 (छत्तीसगढ़) (जिसे इसमें इसके पश्चात् उक्त सरकारी कम्पनी कहा गया है), ऐसे निबंधनों और शर्तों का जो केन्द्रीय सरकार इस निपित अधिरोपित करना उचित समझे, अनुपालन करने के लिये तैयार है।

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि इस प्रकार निहित उक्त 52.228 हेक्टर (लगभग) भूमि और उस पर के सभी अधिकार, तारीख 29 अक्टूबर, 2011 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाय, नियन्त्रित निबंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कम्पनी में निहित हो जाएंगे, अर्थात्:-

(1) उक्त सरकारी कम्पनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, व्याज, नुकसानी और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;

(2) उक्त सरकारी कम्पनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संदेश रकमों का अवधारण करने के प्रयोजन के लिये एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता करने के लिये नियुक्त व्यक्तियों के संबंधों में उपगत सभी व्यय, उक्त कम्पनी द्वारा वहन किये जायेंगे और इसी प्रकार निहित उक्त भूमि में या उस पर के अधिकार के लिये या उसके संबंध में जैसे अपील आदि सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय भी, इस प्रकार उक्त सरकारी कम्पनी द्वारा वहन किये जाएंगे;

(3) उक्त सरकारी कम्पनी, केन्द्रीय सरकार या उसके अधिकारियों की, ऐसे किसी अन्य व्यय के संबंध में, क्षतिपूर्ति करेगी जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो;

(4) उक्त सरकारी कम्पनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि और भूमि में या उसके ऊपर इस प्रकार निहित संधिकार को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और

(5) उक्त सरकारी कम्पनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिये दिए जाएं या अधिरोपित की जाए, पालन करेगी।

[फा. सं. 43015/38/2009-पीआरआईडब्ल्यू-1]

हेमन्त जैन, उप-सचिव

**MINISTRY OF COAL
ORDER**

New Delhi, the 23rd July, 2012

S.O. 2433.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal number S.O. 3063 dated the 19th October, 2011 published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 29th October, 2011 issued under sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the lands as all rights in or over the land described in the schedule appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of Section 10 of the said Act.

And whereas the Central Government is satisfied that the South Eastern Coalfields Limited, Seepat Road, Post Box number 60, District-Bilaspur-495006 (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 11 of the said Act, the Central Government hereby direct that the all rights of 52.228 hectares (approximately) in or over the said lands so vested shall with effect from dated the 29th October, 2011 instead of continuing to so vest in the Central Government shall vest in the Government Company subject to the following terms and conditions namely:—

1. The Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like as determined under the provisions of the said Act.

2. A Tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the Government Company under conditions (1) and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals etc. for or in connection with the rights in or over the said lands so vesting shall also be borne by the Government Company.

3. The Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vesting.

4. The Government Company shall have no power to transfer the said lands to any other persons without the previous approval of the Central Government; and

5. The Government Company shall abide by such direction and conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

[F. No. 43015/38/2009 - PRIW-I]

HEMANT JAIN, Dy. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 20 जुलाई, 2012

का.आ. 2434.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में उक्त अधिनियम के अधीन तमिलनाडु राज्य और पुदुचेरी संघ शासित प्रदेश के भीतर गेल (इण्डिया) लिमिटेड के कावेरी बेसिन के क्षेत्रों नरिमनम, कुथालम, रमनाड, कोवीलकलप्पल, थिरुमाकोट्टाई और भूवनागिरी की पाइपलाइनों के लिये सक्षम प्राधिकारी के कार्यों का निर्वहन करने के लिये जी. विमला, स्पेशल तहसीलदार, तमिलनाडु सरकार को प्राधिकृत करती है।

[फा. सं. एल-14014/34/12-जी.पी.]

ए. गोस्वामी, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 20th July, 2012

S.O. 2434.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby authorizes G. Vimala, Special Tehsildar, Government of Tamil Nadu to perform the functions of Competent Authority for Narimanam, Kuthalam, Ramnad, Kovilkalappal, Thirumakottai and Bhuvanagiri Zones of Cauvery Basin pipelines of GAIL (India) Limited, under the said Act, within the territory of Tamil Nadu State and Union Territory of Puducherry.

[F. No. L-14014/34/12-G.P.]

A. GOSWAMI, Under Secy.

नई दिल्ली, 20 जुलाई, 2012

का.आ. 2435.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में नीचे दी गई अनुसूची के स्तम्भ (2) में उल्लिखित अधिकारियों को उक्त अनुसूची के स्तम्भ (3) में की तत्स्थानी प्रविष्टि में उल्लिखित क्षेत्र की बाबत, उक्त अधिनियम के अधीन जोएसपीएल की मेहसाना-भटिण्डा और भटिण्डा-जम्मू-श्रीनगर के लिए सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए प्राधिकृत करती है अर्थात् :—

अनुसूची

क्र.सं.	प्राधिकारी का पद एवं पता	पंजाब राज्य में क्षेत्राधिकार
1	2	3
1.	जिला राजस्व अधिकारी, उपायुक्त कार्यालय, न्यू कोर्ट कॉम्प्लेक्स, मनसा, पंजाब	मनसा जिला
2..	जिला राजस्व अधिकारी, उपायुक्त कार्यालय मिनी सचिवालय, भटिण्डा, पंजाब	भटिण्डा जिला
3.	जिला राजस्व अधिकारी, उपायुक्त कार्यालय, सतलुज ब्लॉक, जिला प्रशासनिक कॉम्प्लेक्स, मोगा, पंजाब	मोगा जिला
4.	जिला राजस्व अधिकारी, उपायुक्त कार्यालय, मिनी सचिवालय, लुधियाना, पंजाब	लुधियाना जिला
5.	जिला राजस्व अधिकारी, उपायुक्त कार्यालय, योजना भवन कॉम्प्लेक्स, जिला कोर्ट, कपूरथला, पंजाब	कपूरथला जिला
6.	जिला राजस्व अधिकारी, उपायुक्त कार्यालय, जिला प्रशासनिक कॉम्प्लेक्स, होशियारपुर, पंजाब	होशियारपुर जिला
7.	जिला राजस्व अधिकारी, उपायुक्त कार्यालय, जिला कोर्ट, गुरदासपुर, पंजाब	गुरदासपुर जिला

1	2	3
8.	जिला राजस्व अधिकारी, उपायुक्त कार्यालय, फिरोजपुर, पंजाब	फिरोजपुर जिला
9.	जिला राजस्व अधिकारी, उपायुक्त कार्यालय, जिला प्रशासनिक कॉम्प्लेक्स, जालन्धर, पंजाब	जालन्धर जिला
10.	जिला राजस्व अधिकारी, उपायुक्त कार्यालय, अमृतसर, पंजाब	अमृतसर जिला
2.	यह अधिसूचना जारी होने की तारीख से लागू होगी।	

[फा. सं. एल-14014/39/2012-जी.पी]
ए. गोस्वामी, अवर सचिव

New Delhi, the 20th July, 2012

S. O. 2435.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in Land) Act, 1962 (50 of 1962), the Central Government hereby authorizes the designated officers as mentioned in column (2) of the Schedule given below to perform the functions of the Competent Authority for Gujarat State Petronet Limited's Mehsana - Bhatinda and Bhatinda-Jamnu - Srinagar Pipelines under the said Act, in respect of the areas mentioned in column (3) of the said Schedule namely:—

SCHEDULE

S.No.	Designation and Address of the Authority	Area of Jurisdiction in the State of Punjab
1.	District Revenue Officer, Office of the Deputy Commissioner, New Court Complex, Mansa, Punjab	District of Mansa
2.	District Revenue Officer, Office of Deputy Commissioner, Mini Secretariat, Bhatinda, Punjab	District of Bhatinda
3.	District Revenue Officer, Office of Deputy Commissioner, Satluj Block, District Administrative Complex, Moga, Punjab	District of Moga
4.	District Revenue Officer, Office of Deputy Commissioner, Mini Secretariat, Ludhiana, Punjab	District of Ludhiana
5.	District Revenue Officer, Office of Deputy Commissioner, Yojna Bhavan Complex, District Court, Kapurthala, Punjab	District of Kapurthala
6.	District Revenue Officer, Office of Deputy Commissioner, District Administrative Complex, Hoshiarpur, Punjab	District of Hoshiarpur
7.	District Revenue Officer, Office of Deputy Commissioner, District Courts, Gurdaspur, Punjab	District of Gurdaspur
8.	District Revenue Officer, Office of Deputy Commissioner, Firozepur, Punjab	District of Firozepur
9.	District Revenue Officer, Office of the Deputy Commissioner, District Administrative Complex, Jalandhar, Punjab	District of Jalandhar
10.	District Revenue Officer, Office of Deputy Commissioner, Amritsar, Punjab	District of Amritsar

2. This notification will be effective from the date of its issue.

[F. No. I-14014/39/2012-GP]
A. GOSWAMI, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 25 जून, 2012

का.आ. 2436.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार चीफ जरनल मैनेजर, बी.एस.एन.एल., भरुच और अदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए/आफ 32/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-6-2012 को प्राप्त हुआ था।

[सं. एल-40012/145/2004-आईआर (डीयू)]

सुरेन्द्र कुमार, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 25th June, 2012

S.O. 2436.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGITA of 32/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Chief General Manager BSNL, Bharuch and others and their workman, which was received by the Central Government on 25-6-2012.

[No. L-40012/145/2004-IR(DU)]

SURENDRA KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Binay Kumar Sinha,
Presiding Officer,
CGIT cum Labour Court,
Ahmedabad, Dated 25th May, 2012

Reference: CGITA of 32/2005

- (1) The Chairman and Managing Director,
BSNL, Sanchar Bhawan, Ashoka Road,
New Delhi-110 001.
- (2) The Chief General Manager,
BSNL, Gujarat Circle, GIDC, Bharuch.
- (3) The S.D.E(RLU/RSU),
BSNL, GIDC, Bharuch.First Parties

And their workman

Shri K.A. Ansari, Pannalal's Chawl,
Nr. Railway Station, Post Jhagdiya,
Bharuch.Second Party

For the first party :—

Shri B.D. Thakkar, Advocate

For the second party :—

Shri R.N. Singh, Advocate

AWARD

The Central Government/Ministry of Labour by its order No. L-40012/145/2004-IR (DU), New Dehli, dated 24-3-2005 in exercise of the powers conferred by clause (d) of sub section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 referred the dispute to the CGIT-cum-Labour Court, Ahmedabad for adjudication by formulating the terms of reference as follows:

SCHEDULE

"Whether the demand of the workman Shri K.A. Ansari for reinstatement in service with full back wages in his original post is legal, proper and justified ? If so, to what relief the concerned workman Shri K.A. Ansari is entitled and from which date and what other directions are necessary in the matter ?"

- (2) Upon notices to the parties the second party workman as well the first party management appear and filed respective pleadings- the second party filed statement of claim at Ext. 5 and the first party its written statement at Ext. 6.
- (3) The case of the second party shortly stated, is that he was appointed as watchman on casual basis since 16-10-1984 and he continued as casual labour up to 1989. The second party was conferred the status of temporary status Mazdoor (TSM) w.e.f. 01-10-1989. Further case is that the second party workman was serving in the department of first party without any break and in this way the second party rendered the service with the first party department in the temporary status for more than 14 years apart from 5 years service as casual labour. Further case is that the second party was appointed with Telecom Department which subsequently has become Bharat Sanchar Nigam Ltd. (BSNL). Further case is that there was some discrepancy in the date of birth of the second party. The actual date of birth of the second party is 28-11-1965 whereas the date of birth has wrongly been appearing in the school leaving certificate of the second party as 28-11-1969. The first party made clarification from the father of the second party and the father of the second party deposed on affidavit on 7-05-1991 stating that actual date of birth of the second party K.A. Ansari is 28-11-1965 and as such the date of birth was mention in the form application for getting temporary status and the first party authority also

recognized the date of birth 28-11-1965 of the second party. Further case is that the second party workman had completed the service of more than 10 years and so he was asked to fill the attestation form. But since the attestation form was in English language which could not be filled by the second party himself rather the same was filled up by the permanent employee of the first party establishment. The permanent employee of the first party filled up all the columns in English and while filling the date of birth column, instead of confirming from the second party, he had furnished the date of birth, as per the school leaving certificate, which is 28-11-1969. Therefore the medical examination was also carried out upon the second party, wherein also, the same date birth was furnished, as per the attested form, which is actually date of birth is 28-11-1965 but was wrongly supplied as 28-11-1969. Further case is that one letter was issued on 4-04-2002 by the first party to the second party asking clarification regarding his date of birth which was itself contradictory and it was directed to make clarification for consideration of his case for regularisation of service. Further clarification of date of birth was sought by the first party department from the second party vide letter, dated 28-05-2003 which was to be submitted within 10 days from the issue of letter. The second party replied that letter on 4-07-2003 making clarification that date of birth shown in the school leaving certificate was not correct as his parents were illiterate and from the date of birth was not registered in local body office records at Jagdiya and the second party also attached the affidavit of his father wherein his father declared his date of birth as 28-11-1965. Further case is that in spite of clarification given by the second party the first party issued a chargesheet to the second party vide letter dated 7th August, 2003 with charges levelled at Annexure. According to the chargesheet it has been stated that the second party committed grave misconduct and failed to maintain absolute integrity and the second party exhibited lack of devotion of duty and acted in a manner, which is unbecoming of servant or a department. One additional charge was also levelled in the chargesheet that the second party was serving as casual mazdoor since 1984, then, how, the second party was studying in the school from the year 1983 to 1987. The second party submitted his reply vide letter dated 16-08-2003, that the chargesheet did not clarify that what rule was violated by him (second party) and that chargesheet was not issued in the spirit as provided under Rule 14 of CCS Rules 1955. It was

also replied that the construction and phrases used in the chargesheet was appearing to be violation of Rule 3 (1) of CCS (conduct) Rules 1964, but the said rule was not applicable to the second party. The second party requested in his reply letter to drop the charges but the first party issued show cause notice of termination of service of the second party vide letter dated 16-09-2003. The second party preferred SCA No. 14810 of 2003 before the High Court of Gujarat but the writ petition was withdrawn with a view to file departmental appeal. Then departmental appeal was filed before the appellate authority on 15-10-2003 but the appeal was dismissed on 5-04-2004. Thereafter the second party raised dispute by filing application before the ALC (Central), Baroda resulting in this reference case. The second party has sought for relief of setting aside the order of his termination dated 16-9-2003 declaring same to be illegal and unjust and for his reinstatement with full back wages and continuity of service and also for cost of the suit and to any other relief to which the second party workman is found entitled.

- (4) The case of the first party pleading inter-alia is that the reference is not maintainable, second party workman has no cause of action and that the second party workman has not represented the true and correct picture regarding his termination and the allegations made in the statement of claim against the first party have been denied with further submissions that the second party workman has to strict prove of the facts and allegations made against the first party. The case of the first party is that the second party workman had studied in the Divan Dhanji Sha High School Jagdiya, Bharuch from 15-06-1983 to 31-05-1987 as per the school leaving certificate. It has been denied that the first party asked for explanation on 7-08-2003 regarding date of birth of second party though same was disposed of previously. Further case is that though the explanation was given by second party regarding his date of birth but it was not found satisfactory to the authority of the first party and so the memorandum of charge sheet was issued to the second party on 07-08-2003. It has been admitted that the second party had replied the memorandum of chargesheet dated 16-08-2003. Further case is that the reply submitted by the second party to the memorandum of chargesheet was not satisfactory and so the second party was served with notice of removal from the service on 16-09-2003 thereafter appeal filed by the second

party was also rejected by the appellate authority with reasoning. Further case is that the second party has disclosed his date of birth 28-11-1969 in attestation form whereas father of the second party namely Mr. Animuddin Ansari has made an affidavit for the date of birth of the second party i.e. 28-11-1965. And so these two dates of birth creates doubt and so the action was taken by the first party against the second party within rules and regulations. And the rules and regulations regarding termination of the service of the second party and the order of removal issued by the first party dated 16-09-2003 is just and proper and legal. Further case is that the second party was given full opportunity to defend himself against chargesheet. The second party has represented his case from very beginning. Further case is that there was no question for holding full fledged departmental enquiry against the second party workman and there was also no reason in following the procedure as per section 25 (F) and 25 (H) of the I.D. Act. Further case is that the second party has filed health certificate before Chief District Medical Officer, General Hospital, Bharuch in which he has mentioned his age as 32 years and so the second party has misguided the first party by showing his different birth dates due to which the first party had passed the order on 16-09-2003 regarding removal from service and on 5-04-2004 by the appellate authority regarding rejecting the appeal. However it has been admitted at para 12 of the w.s. that the concerned workman has maintained his birth dated 28-11-1965 in form for regularisation with temporary status dated 30-11-1989. The father of the concerned workman has also made an affidavit for the date of birth as 28-11-1965 but subsequently the second party has suppressed the material facts by showing different birth dates which creates doubts and so the attitude of the second party towards first party is itself suspicious. On these scores prayer has been made to dismiss the reference since the second party workman is not entitled for any relief in this case.

- (5) In view of the rival contention of the parties as per their pleadings, the following issues are taken up for determination:

ISSUES

- (i) Whether the reference is maintainable?
- (ii) Has the second party (workman) got valid cause of action in this case?
- (iii) Whether the action of the first party in terminating the service on 16-09-2003 is legal, proper and just?

(iv) Whether the demand of the workman Shri K. Ansari for his reinstatement in service with full back wages in his original post, is legal, proper and just?

(v) What orders are to be passed?

FINDINGS

(6) **Issue Nos. III and IV** The workman second party submitted his oral evidence through affidavit at Ext. 8 and was cross-examined by the first party lawyer on behalf of the first party, management witness at Ext. 20 namely Rameshchandra Naginlal Jadav, AGM Administration, BSNL, Bharuch has been examined to deny the claim of the second party workman and to support the stand of the first party regarding termination of the second party workman who had produced the different birth dates that highly created doubt and suspicion to the 1st party resulting in issuing, charge-sheet and the reply to the charge-sheet of the workman not found satisfactory. So, order was passed for his removal/termination from service. On the other hand the evidence of the second party workman as per Ext. 8 is that his correct date of birth was 28-11-1965 as declared by his father in affidavit on 7-05-1991 and that the first party had recognized his such date of birth and such date of birth has also been entered in the form filled up by the workman regarding his regularisation in service of temporary status and that inadvertently/mistakenly his date of birth being 28-11-1969 was mentioned in the school leaving certificate which was not correct at all and that the attestation form which was in English was not filled by him, rather it had been filled by the regular staff of the first party department and as per incorrect date of birth mentioned in the school leaving certificate to be 28-11-1969 was filled up by the regular staff of the first party department without consulting with the second party regarding his date of birth which was already in the record of the first party department to be 28-11-1965 declared by his father in affidavit in the year 1991.

(7) The first party had produced as many as 16 xerox copy of the documents as per list at Ext. 7 subsequently the first party also submitted a list of the documents at Ext. 11 through which 11 documents were produced out of those documents serial No. 3 in the list which is memorandum of charges with Annexure-1 dated 7-08-2003 has been marked Ext. 12 and the document at serial No. 4 the reply letter of the second party dated 14-08-2003 has been marked Ext. 13. The document at serial No. 5 school

leaving certificate of the second party original copy dated 4-08-1987 has been marked Ext. 10, the affidavit submitted by Mr. Animuddin Ansari dated 7-05-1991 at serial No. 9 in the list have been wrongly marked as Ext. 12. Infact the documents as per list serial Nos. 1 to 11 ought to have been given pakka exhibits since in production of those documents the second party have not raised any objection. So for the sake of convenience instead of showing those documents as Ext. 12, 13, 10 and 11 only those documents has to be referred with the list Ext. 11/1 is the letter to second party on the subject regularisation of TRM to RM highlighting as to different dates of birth viz. 28-11-1965 affidavited by his father and 28-11-1969 shown in the school leaving certificate and also regarding the period 19-6-1983 to 31-05-1987 to the second party was studying in the Diwan High School, Jagadiya so how he was working as casual labour since October-1984 and in this regard clarification was sought for from second party. Ext. 11/2 is clarification dated 4-07-1983 submitted by the second party. Ext. 11/3 is memorandum of charge dated 07-8-2003. Ext. 11/4 is the reply of the second party to the memorandum of charge dated 14-8-2003. Ext. 11/5 is notice of removal from service with acknowledgement of second party dated 16-09-2003. Ext. 11/6 is school leaving certificate of the second party dated 24-08-1987. Ext. 11/7 is attestation form of the second party dated 7-11-2001 wherein the date of birth has been mentioned as 28-11-1969 in column No. 7. Ext. 11/8 is health certificate of second party dated 5-11-2001. Ext. 11/9 is affidavit of second party father dated 07-5-1991 declaring birth date of the second party to be 28-11-1965. Ext. 11/10 is the letter of the first party to the second party dated 15-10-2003 informing as to rejection of the appeal for a stay of the termination order dated 16-09-2003 passed by the S.D.E, RLD RSU GIDC, Bharuch. Ext. 11/11 is the letter from first party to second party dated 5-04-2004.

- (8) It has been argued on behalf of the second party that the father of the second party was illiterate person and he admitted on solumn affirmation that the correct date of birth of his son (second party) is 28-11-1965 and that he also deposed before first party that he could not get the birth date of the second party entered before the local body. It has been further argued that in such situation the second party cannot come to know the correct date of birth himself rather it is only his parents who are competent to show the correct date of birth. It has been further argued

that due to illiteracy of the parents of the second party, it was every possibility that due to mistake of the school authority or of the parents of the second party that date of birth being 28-11-1969 appeared in the school records but that cannot be considered to be correct date of birth in absence of the birth certificate and also taking in view the particular affidavit made by the second party's father who is now no more who died on 12-07-2003. In support of such arguments the learned counsel of the second party has relied upon the case law of Manoj Kumar V/s Government of NCT of Delhi and others reported in 2010 (11) Supreme Courts case 702 wherein their lordship have held that the matriculation certificate though a strong proof is not the only prove of date of birth and other equally material cannot be ignored particularly when matriculation certificate has subsequently being corrected. It has been further held that the case of new entrant in seeking correction of date of birth should not be equated with case of existing employees seeking to prolong their retention in service by correction of their date of birth in service records at the fag end of their service. In the instant case the second party being new entrant has been given temporary status in the year 1989, admittedly had filled the form incorporating his date of birth 28-11-1965 and regarding such date of birth, the authority of the first party had also enquired from the second party's father in the year 1991 and the second party's father as per Ext. 11/9 had sworn affidavit dated 7-05-1991 incorporating the date of birth of the second party to be 28-11-1965 and also mentioning that due to ignorance the date of birth of the second party could not have been registered at local authority office. From very perusal the filled up proforma of attestation form at Ext. 11/7 it appears that the proforma is in English and there is only signature in English of the second party workman K. Ansari mentioned dated 7-11-2001. His such handwriting in putting signature quite differs from the filled up handwriting right from column No. 1 to 12 and also in the identity certificate at page 4 of the attestation form. It is crystal clear that a person having good knowledge of English and having good handwriting had filled up the attestation form of the second party workman. It was quite known to the department of the first party there was difference of birth dates as per school leaving certificate dated 24-07-1987 whereas the second party workman was not accepting his correct date of birth to be 28-11-1969 rather he was supporting his age to be 28-11-1965 as per affidavit of his father. So there was possibility that the regular staff of the department of the first party who had filled up form on behalf of the second party workman might

have entered the date of birth as 28-11-1969 keeping in view the date of birth as per school leaving certificate and not keeping in view as per the affidavit dated 7-05-1991 of the second party's father produced by the second party fathers himself before the department of first party. The learned counsel for the first party could not convincingly argued that when in the reply given by the second party workman to the letter of the first party dated 28-05-2003 through Ext. 11/2 how doubt/suspicion was created in the mind of the first party authority that for any gainful purpose the second party got his date of birth intentionally entered as 28-11-1969 in his attestation form through the staff dated 7-11-2001 since from very beginning the second party had represented his date of birth vividly to be 28-11-1965 as per affidavit of his father dated 7-05-1991. Ext. 11/9. There was no any question of taking disciplinary action on part of the first party in issuing charge-sheet to the second party, even in reply to the chargesheet the second party workman had remained stick to his such stand that his date of birth is 28-11-1965 and not 28-11-1969, has shown in incorrectly in his school leaving certificate. In that view of the matter there was no any question for taking such drastic action for passing order of termination/removal of service of the second party, rather on clarification made by the second party the first party authority ought to have rectify his date of birth to be 28-11-1965 by calling the second party workman and in this regard the authority of the first party may have also directed to the second party to get his date of birth corrected as 28-11-1965 in the school leaving certificate which has been shown as 28-11-1969.

- (9) It is admitted position that for the month of October-1984 when the second party was enrolled as casual labour on muster roll, his service was of night guard and the duty of the night guard is in the night and in the day time the second party workman was not bound to attend the duty in the department of the first party and since the second party status was of casual labour so he was not required to attend the duty regularly. So, in that course if the workman was a studying in the Diwan High School, Jagdiya, Bharuch from 15-06-1983 to 31-04-1987 no illegality can be said have been done by the second party workman in resuming his further school study up to class 10th. It may be mentioned here that temporary status from casual labour was given to the second party w.e.f. 1-10-1989 thereafter the second party was duty bound not to carry on his study further

without express permission of the authority of the first party but since the second party had carried on his study in that school up to 31-05-1987 that is much before getting temporary mazdoor status (TMS) in the first party department by the second party. Only discrepancy in the school leaving certificate appears to be regarding his date of birth to be 27-11-1969 but from the beginning the second party is himself disowning his such date of birth and repeatedly remaining stick to his date of birth being 27-11-1965 as per affidavit of his father. More so, when the second party workman had acquired temporary mazdoor status on 1-10-1989 and further he was subjected to regularise in service of the first party he was to fill up attestation form etc. But with clear standing of the second party he had not misused his date of birth being 28-11-1969 mention in his attestation form. More so school leaving certificate has no any status of matriculation certificate since the workman has not passed SSC board examination and had not been granted matriculation certificate. More so, the second party workman being new entrant had sought for correction of date of birth relying upon his father's affidavit as 28-11-1965 instead of 28-11-1969 so it was not with a view that the second party workman was thinking to prolong his retention in service in supporting his date of birth to be 28-11-1969.

- (10) Such argument advanced by Shri Thakkar learned counsel for the first party does not appear to be tenable that first party has disclosed his date of birth as 28-11-1969 in the attestation form whereas his father has submitted affidavit showing date of birth of second party as 28-11-1965 and so the action taken by the authority of the first party regarding removal/termination of service of the second party is just proper. Such arguments advanced on behalf of the first party is not at all convincing because the date of birth is correctly known to the parents of the second party and second party cannot give correct date of birth there may be mistake in the school record but the affidavit of the father of the second party was required to be treated as true and correct statement of fact regarding date of birth of the second party. This has not been considered by the authorities of the first party. More so, the charge-sheet issued to the second party workman appears to be vague how the second party has committed grave misconduct under which rules and regulations. More so, even if memorandum of charge had been issued to the workman, the principle of natural justice ought to have been

followed by the management of the first party in taking full fledged domestic enquiry against the second party workman, but instead of domestic enquiry the punishment order dated 16-09-2003 regarding removal of the service of the second party was passed without following principle of natural justice and without conducting full fledged domestic enquiry conducted second party workman could have availed the opportunity in defending himself against the charge.

- (11) I find from the discussion made above that there was no need for issuing memorandum of charge to the second party workman. More so, without mentioning about the violation of what rules and regulations are for misconduct on part of the delinquent workman. As per evidence discussed above, I am of the considered view that mentioning of date of birth in column No.7 of attestation form to be 28-11-1969 was not intentional on part of the second party rather it was filled up by the staff of the department of the first party taking in view that second party workman who was asked to produce school leaving certificate but having wrong date of birth to which the second party workman was not accepting rather he was in disagreement to his such date of birth and agree to the date of birth declared by his father in affidavit to be 28-11-1965. Such mistake ought to have sorted out by the authority of the first party department in course of regularisation/non-regularisation of the second party workman who had earlier been given temporary status w.e.f. 1-10-1989.
- (12) Thus upon consideration of the evidence and materials and the case law and also considering the submission made on behalf of the learned counsel of both sides, I am of the considered view that the action of the first party in removal/termination of the second party workman by notice of removal from service dated 16-09-2003 is illegal, improper and unjust. I further find and hold that the demand of the workman Shri K.A. Ansari for his reinstatement in service is legal, proper and just. But his such demand for full back wages is not at all tenable and acceptable because of the principle "no work no pay". More so, there was also some mistake on part of the second party workman that lead to raise dispute. It was also duty on part of the second party to get his date of birth mentioned in the school leaving certificate corrected as 28-11-1965 instead of 28-11-1969 shown in the school leaving certificate when the authority of the first party had asked from him about the school leaving

certificate but the second party workman had not take any sincere steps towards correction of his date of birth in the school leaving certificate i.e. correct date of birth being 28-11-1965 can be filled up in the attestation form towards his claim for regularisation of service, but the second party workman was also lagging behind in this respect. So the second party workman is not at all entitled for any back wages. These two issues are decided accordingly.

- (13) **Issue Nos. I, II & V** In view of the findings given to issue No. III & IV in the foregoing, I further find and hold that this reference is maintainable and the second party workman has valid cause of action and that the second party workman is entitled for reinstatement in service with continuity of service (for purpose of getting retirement benefit) if any. The order/notice dated 16-09-2003 regarding removal from service of the second party workman and the rejection of appeal of the second party workman by Appellate Authority are set aside.

Reference is accordingly allowed on contest. No order as to any cost.

The first party is directed to reinstate the second party workman Shri K.A. Ansari within a 60 days. Failing which the second party workman shall be entitled for back wages from the date of this award.

This is my award.

Let copies of the award be sent to the appropriate Government for publication.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 26 जून, 2012

का.आ. 2437.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, I, धनबाद के पंचाट (आईडी संख्या 103/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-6-2012 को प्राप्त हुआ था।

[सं. एल-20012/246/1995-आईआर (सी-I)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 26th June, 2012

S.O. 2437.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 103/1996) of the Central Government Industrial Tribunal-Cum-Labour Court-I, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL & others and their workman,

which was received by the Central Government on 19-6-2012.

[No. L-20012/246/1995-IR(C-I)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.1) DHANBAD

In the matter of a reference U/s. 10(1)(d)-(2A) of the Industrial Disputes Act, 1947.

Reference No. 103 of 1996

Parties : Employer in relation to the management of Phularitand Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen

Present : SHRI H. M. SINGH, Presiding Officer

APPEARANCES:

For the employers : Shri B. M. Prasad,
Advocate.

For the workmen : Shri S. N. Goswami,
Advocate.

State : Jharkhand

Industry : Coal.

Dated, the 11th June, 2012

AWARD

By Order No. L-20012/246/95-IR (Coal-I) dated 7-11-96 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Phularitand Colliery, Barora Area of M/s. BCCL in dismissing Shri Hazari Pradhan, Ex-Cashier w.e.f. 17-9-1993 is justified ? If not, to what relief is the concerned workman entitled ?"

2. The case of the concerned workman is that the concerned workman was initially appointed as an Asstt. Accountant and posted at Barora Area office of M/s. BCCL on 16-4-83 and thereafter he was transferred to Phularitand colliery office on promotion of Asstt. Cashier in the year 1990. He was to transfer at Mahanadi Coal Field Ltd. Sambalpur due to nearest to his native village and he was suffering from Lumbar vertibreal pain. He applied for his transfer and he was released from the job of cashier and as per direction of the management he had handed over the

charges to N. K. Singh, incoming cashier in presence of the Dy. C.M.E. The concerned workman was granted leave from 21-4-95 to 28-5-95. During the leave period he fell seriously ill and undergone treatment from 29-5-93 to 10-9-93 which was intimated to the Dy. C.M.E., Phularitand colliery with medical certificate. After recovery he reported for duty on 4-10-93 but the Dy. C.M.E., Phularitand colliery informed him that his service had been dismissed vide letter dated 17-9-93. The concerned workman filed appeal to the General Manager, Barora Area No. I of M/s. BCCL vide letter dated 17-1-94, but the management neither considered his appeal nor supplied any copy of the charge-sheet or enquiry proceeding nor dismissal letter to him. A criminal case being Baghmara P. S. Case No. 216/93 was lodged against him on 22-8-93. The allegations levelled in the charge-sheet against him is vague, invalid and ab initio. The concerned workman was performing his duty under the direct control and supervision of the Dy. C.M.E., Finance Officer. The prima facie brief of the allegation is that the indent has been issued for disbursement of the payment of arrears dues of LTC/LLTC/1991 for encashment in favour of the concerned workman. Accordingly, the concerned workman as cashier, received the cash from the area office and recorded the same in Cash Book and distribution register. The pay clerk is responsible for payment to the persons and under whom identification of all persons are made. In the month of August 1993 some victim workers of Phularitand colliery intimated to the Dy. CME and other authorities that they had neither been made payment of LTC/LLTC during the period of November, 1991 and December 1991 nor their names had been enlisted by the order of Dy. C.M.E., Phularitand colliery for this payment. A F.I.R. was lodged against the concerned workman and the pay clerk on 22-12-93, simultaneously the concerned workman was dismissed from service from back date upon and exparte domestic enquiry. The report of the Enquiry Officer contradictory unfair, improper, perverse and without any basis.

In view of the above facts and circumstances it has been prayed that the Hon'ble Tribunal be pleased to set aside the order of dismissal and award by directing the management to reinstate the concerned workman with full back wages and consequential benefits.

3. The case of the management is that in the year 1993 the concerned workman was working as cashier at Phularitand colliery of Barora area. A complaint was received from Etwari Mahato, Prop-Mistry and 14 other workers that their names did not appear in the list prepared for the month of November 1991 and December, 1991 for payment of LTC to them. Therefore when the payment commenced from 27-7-1993 to make payment of LTC/LLTC for the months of November 1991 and December 1991 they were not paid the same. After receipt of the complaint, the matter was verified and the concerned workman was

Issued a charge-sheet dated 2-8-1993 setting out the details and the LTC payments, giving the names of the workmen who made the complaint and the total amount misappropriated by him amounted to Rs. 65,839. On further checking it was observed that four more persons, S/Shri Chhotelal Gope and three others were also not paid their LTC amounting to Rs. 20,580 and false vouchers had been prepared in their names and putting false thumb impressions he had shown the four persons to have received the LTC. The concerned workman was issued another charge-sheet dated 9-8-1993 in respect of the other four workmen. Shri S. K. Choudhary, Dy. Personnel Manager of Phularitand Colliery, was appointed as Enquiry Officer to enquire into the charges dated 2-6-1993 and 9-8-1993 issued to the concerned workman by enquiry notice dated 25-8-1993. The concerned workman failed to submit his explanation to the charge-sheet issued to him. The Enquiry Officer sent enquiry notice to the concerned workman to his permanent address by registered post and one copy was published in the local newspaper 'AWAZ' and one copy was displayed in the notice board. But he did not attend the enquiry. It has been submitted that the concerned workman neither submitted his reply to the charge-sheet nor appear in the enquiry. In such a situation the Enquiry Officer conducted the enquiry ex parte and gave his findings holding the concerned workman guilty of the charges levelled against him. On the basis of enquiry report the concerned workman was dismissed from service w.e.f. 17-9-1993.

Under such circumstances, it has been prayed that the Hon'ble Tribunal be pleased to pass an award holding that the dismissal of the concerned workman is legal and justified and he is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The management produced MW-1, Hare Krishna Choudhary, on preliminary point, and documents marked as Ex-'x' to 'x-4/1' for identification.

The concerned workman produced himself as WW-1. Documents have been marked as Exts. W-1 to W-5.

6. main argument advanced on behalf of the concerned workman is that an ex-parten enquiry report was submitted by the Enquiry Officer and no notice was received by the concerned workman and he was ill. He gave application to the management through registered post. But the management conducted ex-parten enquiry.

Regarding this point the management argued that notice was sent to the concerned workman in his local address as well as at his permanent home address but that was returned back. The notice was published in the daily

News-paper. As per 'x'/4 it does not show the name of the News-paper. In this respect law has been referred on behalf of the workman reported in 1996 (3) All. PLR 185 in which Hon'ble Supreme Court laid down "Service Law—Departmental enquiry—Service of notice and chargesheet—Sent by registered post Returned with endorsement 'not found'— Show cause notice published in news paper having no wide circulation. It cannot be legally treated to has been served The theory of 'communication' can not be invoked and 'Actual Service' must be proved and established." Supreme also referred AIR 1977 SC 629; AIR 1970 SC 214; AIR 1966 SC 1313; (1964)4 SCR 733 :AIR 1964 SC 72 :AIR 1963 SC 395.

It shows that no second show cause notice was given to the concerned workman which is violative of principles of natural justice.

Another argument advanced on behalf of the concerned workman is that in criminal case in which enquiry has been conducted, FIR was lodged with the police and the concerned workman was acquitted in that very case. He has filed acquittal order passed by Sessions Judge, Dhanbad, as per Ext. W-5 Cr. Appeal No. 12/2001 dated 23-6-2008 and the concerned workman was acquitted on the ground that the vouchers by which money was paid to the workers has not been adduced in evidence to show that whether the money was actually withdrawn against their name for payment of L.T.C. Moreover, all the witnesses whose money alleged to be withdrawn, they have not supported the fact that the concerned workman had withdrawn the money in their name. The Sessions Judge also observed that there is no documentary evidence on the record to show that the money was actually withdrawn. The allotment order for L.T.C. amount, the cash register, the payment voucher have not been adduced in evidence.

It only shows as per order of the Sessions Judge dated 23-6-2008 that the case was not proved against the concerned workmen. All the witnesses have been declared hostile produced by the management.

7. There is no ground to dismiss the concerned workman by holding ex-parte enquiry by the management and without giving proper notice and properly circulation of news-paper.

Moreover, in such circumstances the punishment is very much harsh particularly when he is honourably acquitted on the same case by the Sessions Judge and no second show cause notice was given before dismissing him from service.

8. Considering the above facts and circumstances I hold that the action of the management of Phularitand colliery, Barora Area of M/s. BCCL in dismissing Shri Hazari Pradhan, Ex-Cashier w.e.f. 17-9-1994 is not justified.

Accordingly, the concerned workman is entitled to be reinstated in service w.e.f. 17-9-1993 with 50% back wages and other consequential benefits.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 26 जून, 2012

का.आ. 2438.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, धनबाद के पंचाट (आईडी संख्या 53/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-6-2012 को प्राप्त हुआ था।

[सं. एल-20012/362/1990-आईआर (सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 26th June, 2012

S.O. 2438.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 53/1991) of the Central Government Industrial Tribunal/Labour Court-I, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and others and their workman, which was received by the Central Government on 19-6-2012.

[No. L-20012/362/1990-IR(C-I)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. I) DHANBAD

In the matter of a reference U/s. 10(1)(d) (2A) of the Industrial Disputes Act, 1947.

Reference No. 53 of 1991

Parties : Employers in relation to the management of Moonidih Project of M/s. B.C.C. Ltd.

AND

Their Workmen

Present : SHRI H. M. SINGH, Presiding Officer

APPEARANCES :

For the employers : Shri D. K. Verma,, Advocate.

For the Workmen : None

State	: Jharkhand
Industry	: Coal.

Dated, the 12th June, 2012

AWARD

By Order No. L-20012(362)/90-IR (Coal-I) dated 29-5-1991 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Moonidih Project under Moonidih Area of M/s. BCCL in denying employment to dependent Shri Lakhya Ram Bouri S/o Late Sripathi Bouri T. No. 162 as per provision contained in para 9.4.2 of NCWA-III is justified? If not what relief the dependent is entitled?"

2. The case of the concerned workman is that he was a General Mazdoor of Moonidih Project of BCCL. He died in the year 1985 during the tenure of his service. The wife of Late Sripathi Bouri had also died. The concerned person, Lakhya Ram Bouri represented before the management for his employment as per provision of NCWA-II, III and IV but without any effect. Thereafter he raised an industrial dispute before the A.L.C. (C) Dhanbad, which ultimately ended in failure due to inhuman attitude of the management. The action of the management in denying employment to Lakhya Ram Bouri, dependent of Late Sripathi Bouri as per provision of 9.4.2 of NCWA-II is not justified.

It has been prayed that the Hon'ble Tribunal be pleased to answer the reference in favour of the workman by directing the management to provide employment to Lakhya Ram Bouri Son of Late Shreepati Bouri with retrospective effect with all arrears of wages and consequential benefits.

3. The case of the management is that the concerned workman, Sripathi Bouri, started absenting from his duty without permission and satisfactory cause from January, 1987. He was issued with a chargesheet dated 30.7.3-8-87 alleging commission of misconduct of absence for more than 10 days without permission which constitutes misconduct under Clause 17(1)(n) of the Certified Standing Order. He did not submit any explanation to the chargesheet and did not attend his duties. Thereafter Shri R.C. Srivastava, Sr. Personnel Officer Moonidih Project was appointed as Enquiry Officer. He conducted the enquiry after giving notice of enquiry to the concerned workman but he did not attend the enquiry. Thereafter notice of enquiry was published in the newspaper 'Awaz' and 'Janmat'. But he did not attend the enquiry. Thereafter the Enquiry Officer submitted his enquiry report dated 18-12-87 holding the concerned workman guilty of

misconduct charged against him. On the basis of enquiry report the concerned workman was dismissed from service w.e.f. 25/28-12-87. Sripathi Bouri died sometime in 89. The sponsoring union has taken up the present case and alleged that Sripathi Bouri died in 1986 before his dismissal and Shri Lakhya Ram Bouri should be provided employment as per Para 9.4.2 of NCWA-III. It has been submitted that Sripathi Bouri was very much in the colliery in the year 1986 and was under treatment in the Hospital of Moonidih from 19-6-86 to 21-6-86 for pain of both limbs. He was also an outdoor patient and was treated upto 5-7-86. Thus the case of the union that Sripathi Bouri died in the year 1985 is definitely false and cannot be accepted. It was also difficult to believe that Lakhya Ram Bouri is the genuine dependent son of Late Sripathi Bouri.

In such circumstances it has been prayed that the Hon'ble Tribunal be pleased to pass the award holding that Lakhya Ram Bouri is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of same of the paragraphs of each other's written statement.

5. The management produced MW-I, Rabindra Ch. Srivastava, who had conducted domestic enquiry against Sripathi Bouri, concerned workman and after domestic enquiry he was dismissed from service.

6. Argument advanced on behalf of the concerned workman is that he died in the year 1985. After that the dependent son of the concerned workman demanded employment as per provision of NCWA in the year 1989.

Management argued that Sripathi Bouri died in the year 1989 and the dependent of Late Sripathi Bouri applied for his employment. The concerned workman was dismissed from his service by letter dated 25/28-12-87. When a person has been dismissed from service, his dependent cannot be given employment.

Document Exts: M-I to M-III shows that due notice was sent to the concerned workman to appear in the enquiry and even after publishing notice in the news paper the concerned workman did not appear in the enquiry. Ultimately the Enquiry was conducted ex-parte enquiry and the Enquiry Officer submitted his report holding him guilty of the misconduct. Thereafter he was dismissed from his service from 25/28-12-87. Hence, his dismissal is justified.

Considering the above facts it shows that a person who is dismissed from service his dependent cannot be given employment under clause 9.4.2 of NCWA.

7. In the result I hold that the action of the management of Moonidih Project under Moonidih Area of M/s. BCCL, in denying employment to Lakhya Ram Bouri, son of Late Sripathi Bouri, as per provision 9.4.2 of NCWA-

II is justified. Hence, the dependent, Lakhya Ram Bouri, is not entitled to any relief.

H. M. SINGH, Presiding Officer

नई दिल्ली, 26 जून, 2012

का.आ. 2439.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी. एल के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय-I, धनबाद के पंचाट (आईडी संख्या 49/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-6-2012 को प्राप्त हुआ था।

[सं. एल-24012/107/1985 आईआर (सी-1)]

राजीत कुमार, अनुभाग अधिकारी

New Delhi, the 26th June, 2012

S.O. 2439.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 49/1991) of the Central Government Industrial Tribunal/Labour Court-I, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and others and their workmen, which was received by the Central Government on 19-6-2012.

[No. L-24012/107/1985-IR(C-I)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 1), DHANBAD

In the matter of a reference U/s. 10(1)(d) of the
Industrial Disputes Act, 1947.

Reference No. 49 of 1991

Parties : Employers in relation to the management of Lodna Area No. X of M/s. B.C.C. Ltd.

AND

Their Workmen

Present : SHRI H. M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : Shri D. K. Verma,
Advocate

For the Workmen : None

State : Jharkhand Industry : Coal.

Dated, the 12th June, 2012

AWARD

By Order No. L-24012(107)/85-DIV/IR (Coal-I) dated 1-5-91 the Central Government in the Ministry of Labour

has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Lodna Area No. X of M/s. Bharat Coking Coal Ltd., in terminating the services of Shri Satai Passi and nine others shown in the annexure is justified? If not to what relief are the workmen entitled to?”

2. The case of the concerned workman is that Satai Passi and other concerned workmen were appointed as permanent workmen. But they were stopped from duty by the management in utter violation of principles of natural justice which resulted in a Reference No. 36 of 1978. During the pendency of adjudication of the aforesaid reference the management entered into Bi-partite settlement with sponsoring union wherein and whereby agreed to reinstate all the concerned workmen. The concerned workmen involved in Reference No. 36 of 1978 represented for their duty in pursuance of the award passed in the aforesaid reference as per settlement. But the management did not allow them to resume their duties. The union and the concerned workmen raised an industrial before the A.L.C. (C), Dhanbad, which ended in failure due to adamant attitude of the management. Thereafter the present dispute has been referred to this Tribunal for adjudication. The action of the management in terminating the services of the concerned workman was unjustified.

Under the facts and circumstances stated above, it has been prayed that the Hon'ble tribunal be pleased to answer the reference in favour of the workmen by directing the management to reinstate the concerned workman with full back wages.

3. The case of the management is that as per an award passed in Reference No. 36 of 1978 of the C.G.I. Tribunal No.3 in terms of the settlement the workmen named in the annexure to the said reference were to be provided employment subject to the conditions stipulated therein. As per conditions No. 1.7 of the award the workmen were required to report for duties within 45 days i.e. latest by 11-2-82 after submitting affidavit declaring that they are not working in any establishment of M/s. Coal India Ltd. and full particulars relating to their age, parentage, home address, qualification etc. for medical examination and if found fit would be allowed to join their duties. Although they were not entitled to be considered for their employment as they did not report for duties within 45 days alongwith the affidavit they were given employment on special consideration provisionally. It was reported to the management that they were not the genuine workmen of Lodna Colliery and they entered into the service by assuming the names of genuine workman and got employment in that process. The management called each and every workmen concerned and confronted them with

the allegations levelled against them and they were advised to submit documents to establish their genuinity within 15 days. But they did not come forward for several years and have raised the present dispute after a lapse of several years from the date of issue of the letters to them. They have failed to establish their genuinity even before the conciliation officer and they cannot compel the management to take them in the employment without being satisfied regarding their genuinity. It has been submitted that the concerned workmen were not the genuine workmen and as such they filed away from the colliery instead of providing their genuinity.

Under such circumstances it has been prayed that the Hon'ble Tribunal be pleased to pass the award holding that the concerned workmen are not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The management produced MW-1, Ram Ekbal Singh, MW-2, Sarputti Passi, MW-3, Jai Gopal Singh, MW-4, Ram Kumar Jaiswara, MW-5, Rajendra Das and MW-6, Ciaram Rai.

Management proved documents as Exts. M-1 to M-13 and also Ext. W-1 and X-1 to X-9 for identification.

The concerned workmen have not produced any evidence.

6. On behalf of the concerned workmen it has been stated that other persons have been regularised but they have not been regularised and their services have been terminated. They are employees as per award passed by C.G.I. Tribunal No.3, Dhanbad, in Reference No. 36 of 1978.

On the contrary the management argued that the concerned workmen were not the genuine workmen and they are job seekers. They filed away from the colliery instead of proving their genuinity. In compliance with the award passed in Reference No. 36/78 issued letters to them to prove their identity genuinity but they filed away from the colliery. The management examined six witnesses who categorically stated that all the workmen concerned are fake persons. They have not come forward to prove their genuinity either before management or before this Tribunal. It shows that all the concerned workmen themselves left their jobs because they are fake persons and impersonators in Reference No. 36 78.

7. Considering the above facts and circumstances, I hold that the action of the management of Lodna Area No. X of M/s. B.C.C. Ltd. in terminating the services of Shri Satai Passi and others shown in the order of reference is justified and the concerned workmen are not entitled to any relief.

This is my Award.

H.M. SINGH, Presiding Officer

नई दिल्ली, 26 जून, 2012

का.आ. 2440.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैं सी. सी. एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, असुविध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम-न्यायालय-I, धनबाद के पंचाट (संदर्भ संख्या-62/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-6-2012 को प्राप्त हुआ था।

[सं. एल-24012/260/1995-आईआर (सी 1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 26th June, 2012

S.O. 2440.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 62/1994) of the Central Government Industrial Tribunal/Labour Court-I, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the M/s. CCL and their workman, which was received by the Central Government on 19-6-2012.

[No. L-24012/260/1995-IR(C-I)]

AJEEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/S. 10(1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 62 of 1994.

Parties : Employers in relation to the management of Pundi Project of CCL

AND

Their Workmen

Present : Shri H. M. SINGH, Presiding Officer

Appearances :

For the Employers : Shri D.K. Verma, Advocate

For the Workmen : Shri U. N. Lal, Advocate

State : Jharkhand : Industry : Coal

Dated, the 11th June 2012

AWARD

By Order No. L-24012/260/95-IR (Coal-I) dated 24-3-94 the Central Government in the Ministry of Labour has, in exercise of the Powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Pundi Project of CCL to terminate the services of S/Shri satyanarayan Singh and Ram Parikha Dushad, Security Guards, Pundi Project is justified? If not, to what relief are these workmen entitled?"

2. The case of the concerned workmen is that they were Security Guards posted at Pundi Magazine. On 24-8-90 in course of their duty hours at about 2.45 A.M. a large number of dacoits came into the magazine and by breaking open the lock of the magazine store removed 11,620 Nos. of detonators. According to the management this theft of large number of detonator took place due to the negligence on the part of the concerned workmen. Accordingly, the management issued charge-sheet against these workmen on the above allegations, suspended them and asked them to submit their explanations. The concerned workmen submitted their explanations narrating the entire facts. But their explanation was not found to be satisfactory and constituted an enquiry to make a departmental enquiry.

After getting notice of enquiry the concerned workmen attended the enquiry and on completion of the enquiry a report was submitted by the Inquiry Officer holding them guilty of the charge. The management agreeing with the report of the enquiry officer, dismissed the concerned workmen against which the Union of the concerned workmen raised industrial dispute. On the failure of the conciliation a report was sent to the Ministry of Labour, Govt. of India, resulting in reference to this Hon'ble Tribunal. In this case the background in which the occurrence took place must be taken serious note of. The management of CCL has its own security arrangement and there is no provision for arm force arrangement, such as, deployment of Industrial Security Force, like that in BCCL. In the above circumstances these two unarmed security men were easily overpowered by a large number of armed miscreants and pushed in a room which was bolted from outside. It is natural that their voice could not be heard outside for any help whatsoever. According to them when they came out at 5 A.M. with the help of a passer-by their nervous condition could be well imagined. From the above it will appear that this occurrence took place on account of their negligence whatsoever and the information given by them could not be said to be belated. The charge-sheet accordingly has not been proved.

It has been prayed that the Hon'ble Tribunal be pleased to hold that the dismissal of these two workmen cannot be said to be justified and the concerned workmen are entitled to be reinstated in service with full back wages and other consequential benefits.

3. The case of the management is that the concerned two workmen were posted for duty at Magazine as security guards in the night shift commencing from 10 p.m. and ending at 6 a.m. the following morning. On 24-8-1990 when

the two concerned workmen were on duty in the magazine, the lock of the magazine was broken and 11,620 detonators were stolen at about 2.45 a.m. It was the duty of the two security guards concerned to prevent the theft of detonators but also to give immediate information to their superiors and information about it was given to the higher authority very late. On account of this delay, appropriate action to apprehend the thieves and recover the stolen detonators could not be taken. The concerned workmen were totally negligent in the discharge of their duties resulting to which the management suffered loss. The Project Officer/Agent, Pundi Colliery issued chargesheets dated 25-8-90 to the concerned workmen calling for their explanation. They submitted identical explanations. They admitted the theft of detonators but denied that they were responsible for delay in giving information to the superiors. They took the stand that there was no telephone. They tried to put the blame on the management for their lapses.

The explanations of the concerned workmen were not found satisfactory and in consequence the management ordered a detailed enquiry into the matter and appointed Sri R. A. Kumar, Sr. Under Manager, Pundi Project as the Enquiry Officer. The Enquiry Officer held enquiry by due intimation to the concerned workmen. They participated in the enquiry along with their co-worker, Md. Attaullah. The enquiry was held in accordance with the principles of natural Justice and all possible and reasonable opportunities were given to them. After holding enquiry the Enquiry Officer submitted his report holding that the concerned workmen were guilty of the charge levelled against them. The Project Officer/Agent considered the report of the enquiry and came to the conclusion that the workmen were guilty of the charges and they should be dismissed from service. Thereafter the General Manager, Kuju Area in which Pundi Project falls and he also agreed with the view taken by the Project Officer, Pundi colliery and accorded his approval for the dismissal of the concerned workmen. Accordingly the two concerned workmen were dismissed from service by order dated 26/30-3-1992 with immediate effect. It has been submitted that the dismissal of the concerned workmen was justified.

Accordingly, it has been prayed that the Hon'ble Tribunal be pleased to hold that the action of the management in dismissing the concerned workmen is justified and the concerned workmen are not entitled any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The management produced MW-I, K.K.Jha and the documents of the management have been marked as Exts. M-1 to M-11 on waiving of the formal proof.

No evidence has been produced on behalf of the concerned workmen.

6. The domestic enquiry was held to be fair and proper by order dated 27-9-1996.

7. Argument advanced on behalf of the concerned workmen is that they were not negligent on their part when detonators were stolen. They remained confined in a room bolted from outside till around 5.00 a.m. when passer by opened the door from outside they immediately informed about the theft at about 6.00 a.m. to Security Guard at the Project Officer. In spite of that the management appointed enquiry officer and they were dismissed from service illegally.

8. In this respect the statement of MW-I is very much material. He stated in his examination that I was appointed as management's representative. In his cross-examination he has stated that the Enquiry Officer is still in service. It shows that the management has not produced the Enquiry Officer before the Tribunal, so that their contents may be admitted.

9. The management referred (2008) I Supreme Court Cases (L & S) 890 in which Hon'ble Supreme Court laid down—

"Industrial Disputes Act, 1947-S. 11-A-Labour Court or Industrial Tribunal cannot act as if it were an appellate body-Appreciation of evidence-held, where two views are possible on evidence, Industrial Tribunal should be very slow in interfering with the findings arrived at in domestic enquiry—

Standard of proof in domestic enquiry is preponderance of probabilities and not proof beyond reasonable doubt-It was improper for the Tribunal to interfere with the findings of domestic enquiry on the ground that there was no independent evidence apart from Management witnesses-Plea of alibi accepted by the Tribunal in this case, also not based on evidence-Award of the Tribunal therefore set aside and dismissal order passed by Management restored-However, general proposition of law accepted that Labour Court can award lesser punishment on a given case."

10. It has also been argued on behalf of the workmen that robbery had been committed in the premises of the factory in the early hours on 25-8-90 at 2.45 a.m. night when 11,620 had been looted by the dacoits and when the concerned workmen were confined in a room bolted from outside till 5.00 a.m. and when passer by opened the door from outside, they went to their immediate superior at about 7.00 a.m. and reported the incident. But no FIR was lodged by the management with the police around 9.00 AM and entire stolen detonators were recovered, and the concerned workmen were chargesheeted. In the F.I.R. no allegations were made against the concerned workmen.

Considering the above facts it shows that there is no fault on the part of the concerned workmen who were

posted as security guards at the magazine store. They were unable to raise their voice when the dacoits confined them in a room bolted from outside. In such circumstances they should not have been dismissed from service by the management.

11. In the result, I hold that the action of the management of Pundi Project of CCL to terminate the service of S/Sri Satyanarayan Singh and Ram Parikha Dushad, Security Guards, Pundi Project is not justified. Accordingly, they are entitled to be re-instated in service with 50% back wages and other consequential benefits and also continuity of service from the date of their termination of service.

This is my award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 27 जून, 2012

का.आ. 2441.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सहारा इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-I, दिल्ली के पंचाट (आईडी संख्या-76/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-6-2012 को प्राप्त हुआ था।

[सं. एल-11012/18/2008-आईआर (सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 27th June, 2012

S.O. 2441.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 76/2012) of the Central Government Industrial Tribunal-Cum-Labour Court-I, Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Sahara India and their workman, which was received by the Central Government on 13-6-2012.

[No. L-11012/18/2008-IR(C-I)]

AJEEIT KUMAR, Section Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, KARKARDOOMA COURTS
COMPLEX, DELHI**

I. D. No. 76/2012

Shri Satyender Kumar,
C/o Ms. Amita Gupta,
100. Sukhdev Vihar,
New Delhi. Workman

Versus

M/s Sahara India,
Sahara India Centre,
8th Floor, 2, Kapoorthala Complex,
Aliganj, Lucknow-226024

. . . Management

AWARD

An Industrial dispute between Shri Rakesh Kumar Rana and others and M/s. Sahara India Commercial Corporation as well as M/s. Jet Airways Ltd. was referred for adjudication to Central Government Industrial Tribunal No. II, New Delhi, by the appropriate Government, vide order No. L-11012/18/2008-IR (CM-I), New Delhi dated 23-6-2009, with following terms:—

“Whether the demand of Shri Rakesh Kumar Rana and 15 others (as annexed) for their absorption in Jet Lite by the management of Jet Airways with reference to the Share Purchase Agreement dated 1-4-2007, entered by the management of Jet Airways (India) Ltd., Sahara India Commercial Corporation Ltd. and others and Sahra Airlines Limited is justified and legal? To what relief are the workmen concerned entitled?”

2. Claimants filed their claim statement, which was dispelled by the aforesaid managements, by way of their written statements.

3. Vide order No. Z-22019/6/2007-IR (C-II) New Delhi dated 30-3-2011, the matter was transferred to this Tribunal by the appropriate Government, while using its powers under Section 33-B of the Industrial Disputes Act, 1947 (in short the Act).

4. On receipt of the case, adjudicatory steps were taken. Issues were settled and the claimants are in the process of adducing their evidence to put forward their cause. During the pendency of the said dispute, Shri Satyender Kumar had moved an application, detailing therein that he was getting a salary of Rs. 11,000 per month, while other employees, doing the same work, were getting their wages between Rs. 16,000 to Rs. 20,000 per month. He made request to M/s. Jet Lite India Ltd. for increase of his wages, since it was difficult for him to meet two ends. Annoyed with that request, his services have been transferred to Trivendrum, Kerela. He projects that his wife is suffering from Asthma. His old parents are dependent upon him. He would not be able to maintain two establishments one at Delhi and the other at Trivendrum, Kerela. He claims that order of transfer of his services to Trivendrum, Kerela may be stayed.

5. Argument on the application were heard at the bar. Ms. Amita Gupta, authorized representative, advanced arguments on behalf of the claimant. Shri G.C. Walesha, authorized representative, raised his submission on behalf of management. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in controversies are as follows:—

6. Section 33 of the Act bars alteration in conditions of service "prejudicial" to the workman concerned in the dispute and punishment of discharge or dismissal when either is connected with pendentelite industrial dispute "save with the permission of the authorities before which the proceedings is pending" or where the discharge or dismissal is for any misconduct not connected with the pendentelite industrial dispute without the "approval of such authority". Prohibition contained in Section 33 of the Act is two fold. On one hand, they are designed to protect the workman concerned during the course of industrial conciliation, arbitration and adjudication, against employers' harassment and victimization, on account of their having raised the industrial dispute or their continuing the pending proceedings and on the other, they seek to maintain status quo by prescribing management conduct which may give rise to "fresh dispute" which further exacerbate the already strained relations between employer and the workman. Where industrial disputes are pendentelite before an authority mentioned in the Section, it was thought necessary that such disputes should be conciliated or adjudicated upon by the authority in a peaceful atmosphere, undisturbed by any subsequent causes for bitterness or unpleasantness. To achieve this object, a ban has been imposed upon the employer exercising his common law, statutory or contractual right to terminate the services of his employees according to contract or the provisions of law governing such service. The ordinary right of the employer to alter the terms of his employees' services to their prejudice or to terminate their services under the general law governing contract of employment, has been banned subject to certain conditions. This ban, therefore, is designed to restrict the interference of the general rights and liabilities of the parties under the ordinary law within the limits truly necessary for accomplishing the object of those provisions. Anxiety to know about ban on the right of the employer, persuades me to reproduce the provisions of Section 33 of the Act thus:—

"33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings. -(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before an arbitrator or a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,—

- (a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or
- (b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute. Save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with standing orders applicable to a workman concerned in such dispute or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman—

- (a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or
- (b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman :

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute —

- (a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceeding; or
 - (b) by discharging or punishing, whether any dismissal or otherwise, such protected workman,
- save with the express permission in writing of the authority before which the proceeding is pending.

Explanation.— For the purposes of this sub-section, a "protected workman", in relation to an establishment, means a workman who, being a member of the executive or other office bearer of a registered trade union connected with the establishment, is recognized as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognized as protected workmen for the purposes of sub-section (3) shall be one per cent of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognized as protected workmen.

(5) Where an employer makes an application to a conciliation officer, Board, an arbitrator, a Labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, within a period of three months from the date of receipt of such application, such order in relation thereto as it deems fit.

Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit.

Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed."

7. As noted above sub-sections (1) and (2) are designed for different purposes since sub-section (1) applies to the proposition when the employer wants to alter service conditions of the workman to his prejudice in regard to any matter connected with the dispute or for any misconduct connected with the dispute, in that situation he is obliged to seek prior permission in writing of the authority before whom the dispute is pending and in a case where the employer wants to alter service conditions of a workman in regard to a matter not connected with the dispute or for any misconduct not connected with the dispute, in that situation he is obliged to seek approval of the order under sub-section (2) of the aforesaid section. When an employer violates the provisions of sub-section (1) or sub-section (2) of Section 33 of the Act, an instant remedy is provided to the workman by the provisions of Section 33A of the Act. In other words, where an employer has contravened the provisions of Section 33, the aggrieved workman has been given the option to make a complaint in writing, to the authority before which an industrial dispute is pending, with which the aggrieved workman is concerned. The complaint of such contravention can be made not to the adjudicating authorities, but to the conciliatory authority also. If a complaint is made to a conciliatory authority, viz. a Conciliation Officer or a Board of Conciliation, clause (a) of Section 33 A of the act authorizes a Conciliation Officer or the Board to take such complaint into account in bringing about a settlement of the complained dispute. The Conciliation Officer or the Board is not empowered to adjudicate upon the dispute, which is the area of adjudicatory authorities. When a complaint is made to adjudicatory authority viz. Arbitrator, Labour Court, Tribunal or National Tribunal, it will adjudicate upon the dispute as if it is a dispute referred to or pending before it.

8. To attract the provisions of Section 33A of the Act, following conditions precedent are to be satisfied.

1. that there should have been a contravention by the management of the provisions of Section 33 of the Act,

2. that the contravention should have been during the pendency of the proceedings before the conciliatory authorities or Labour Court, Tribunal or National Tribunal, as the case may be.
3. that the complainant should have been aggrieved by the contravention, and
4. that the application should have been made to the Labour Court, Tribunal or the National Tribunal in which original proceedings are pending.

9. The claimant asserts that by his transfer to Trivendrum, Kerela, the management had effected change in conditions of his service, during pendency of the aforesaid industrial dispute. Section 33 of the Act ensures fair and satisfactory inquiry pending adjudication proceedings by way of providing a safeguard against victimization of the workman concerned or to prevent unfair labour practice on the part of the employer at that stage. A ban, subject to certain conditions, has been imposed on ordinary rights of the employer to alter terms of his employees' services to their prejudice or to terminate their services under the general law governing contract of employment. Section 33 A of the Act provides for relief against contravention of Section 33 by way of adjudication of the complaint made by aggrieved workman, considering such complaints as disputes referred or pending in accordance with the provisions of the Act. Ban so imposed, is not to restrict implementation of general rights and liabilities of the parties under the ordinary law within the limits truly necessary in accomplishing the above object. The employer is accordingly, left free to deal with the employee when action concerned is not punitive or mala fide or does not amount to victimization or unfair labour practice.

10. There was no provision in repealed Trade Disputes Act, 1929 or in the Act providing for notice of change in conditions of service applicable to a workman. As a result of persistent demand, Section 9A and 9B of the Act, besides Fourth Schedule were introduced in statute book. Introduction of Section 9A prevents unilateral action on the part of the employer in changing condition of service as to the prejudice of the workman. The real purpose of the aforesaid provision is "to afford an opportunity to the workman to consider the effect of the proposed change, if necessary, to present their point of view on the proposal" and such consideration would further serve to stimulate a feeling of consent of joint interest of the management and workman in the Industrial progress and increase productivity.

11. The Fourth Schedule, appended to the Act, enumerates conditions of services for change of which, notice is to be given. Item 7 of the said schedule, speaks in respect of transfer of a workman made malafidely from one place to another, under the guise of following management policies. Therefore when an employer wants to transfer an

employee, he is required to follow the provisions of Section 9 A of the Act. For application of the provisions of Section 9 A of the Act, there should be change in conditions of service, as enumerated above. Section 33 of the Act bars alterations in condition of services, prejudicial to workman concerned in the dispute and disciplinary punishment of discharge or dismissal when either is connected with pendentilite industrial dispute "save with the permission of the authorities before which the proceedings are pending" or whether discharge or dismissal is for any misconduct not connected with the pendentilite industrial dispute without the "approval" of such authority. But an employer may alter conditions of service of the workman concerned in the pending dispute in regard to "any matter not connected with the dispute". The employer is therefore free to take action against his workman if it is not based on any misconduct on his part. Reference can be made to the precedent in V.A. Rebellow [(1972) (1) LLJ 501)].

12. Herein the present controversy, the claimant wants a stay against his transfer order from this Tribunal. Question for consideration would be as to whether such powers vests with this Tribunal? For an adjudication of this proposition, it is to be taken note of that provisions of Chapter V-C were brought on the statute books by the Legislature, by way of enacting Section 25 T and 25 U of the Act. Section 25 T enjoins a duty on an employer, or a workman, or a trade union whether registered under the Trade Union Act, 1926 or not, not to commit any unfair labour practice. Section 25 U provides penalty for any person who commits any unfair labour practice for which he may be punished with imprisonment for a term of six months or with fine which may extend to Rs. 1000 or with both. Therefore, remedial measure has been provided by these two provisions, making an act of unfair labour practice punishable.

13. When the claimant does not move any complaint under Section 33 A of the Act, in that eventuality question would emerge as to whether this Tribunal may take steps to prevent commission of unfair labour practice or for its prosecution. Such proposition was raised before the Apex Court in Ashok Vishnu Kate & Others (1995 Lab.I.C. 2714), wherein the Court was addressed to the provisions of Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971. The Court put a gloss on the provisions of the said Act as well as on the provisions of the Act and observed as follows:—

"There was no provision for reference of any industrial dispute under the Industrial Disputes Act, for preventing any unfair labour practice, by the time the Maharashtra Act saw the light of the day. It is, of course, true that by an amendment to the Industrial Disputes Act Chapter V-C was added w.e.f. August 2, 1984 which deals with unfair labour practice. The "Unfair Labour Practice" as defined by the I.D. Act in Section 2(ra) means any of the practices specified in the Fifth Schedule. When we turn to the Fifth Schedule to the I.D. Act, we find the

cataloguing of unfair labour practices on the part of the employees, the trade unions of the employers and on the part of the workmen and trade unions of the workmen, which are almost pari materia with lists of unfair labour practice on the part of the employers, on the part of the trade unions and general unfair labour practices on the part of the employers as found in Schedule II, III and IV of the Maharashtra Act. However, even the aforesaid amended provisions of the I.D. Act concerning unfair labour practice nowhere provide for any reference of industrial dispute in connection with such unfair labour practice on the part of the employers, who can entitle the workmen or a body of workmen to seek a reference for adjudication or for its prevention by any competent Court under the I.D. Act, and all that a workman can do is to wait till order of discharge or dismissal is passed and then he can raise a dispute under section 2A in connection with dismissal or discharge and if such a dispute is referred by the appropriate Government for adjudication of the Labour Court which is entitled to adjudicate upon such dispute as per residuary item 6 of the Schedule II of the I.D. Act, then in such a dispute it can be shown by the workman that his actual dismissal or discharge was a result of unfair labour practice as laid down by clause 5 of part I of the Fifth Schedule to the I.D. Act. However, there is no provision for preventing any proposed discharge or dismissal by way of unfair labour practice on the part of the employers as per statutory scheme of the I.D. Act even after the insertion of Chapter V-C in that Act. On the other hand, more than decade before the aforesaid amendment was brought in the I.D. Act, which fell short of providing for prevention of unfair labour practice, The Maharashtra Legislature as early as in 1972 enacted the Maharashtra Act providing for such prevention".

14. The Apex Court also made it clear that the provisions of the Act may be invoked on commission of an unfair labour practice and not for its prevention. To have a reference of the observation made by the Apex Court it would be expedient to reproduce law so laid, which is extracted thus:

"When we keep the relevant provisions of the Industrial Disputes Act concerning unfair/labour practices in view and compare those provisions with the provision of the Maharashtra Act, a clear difference/purpose becomes oblivious. Section 25-T of the Industrial Disputes Act prohibits an employer or workmen or trade union from committing any unfair labour practice. While so far as Section 27 of the Maharashtra Act is concerned, it prohibits an employer or union or employee from engaging in any unfair labour practice. Consequently the prohibition under the Industrial Disputes Act is against the commission of unfair labour practice

which may include final acts of such commission. While Section 27 of the Maharashtra Act prohibits the concerned party even from engaging in any unfair labour practice. The word engage is more comprehensive in nature as compared to the word commit. But even that apart, Section 25-U provided for penalty for committing unfair labour practice and mandates that whoever is guilty of any unfair labour practice can be prosecuted before the competent Court on a complaint made by or under the authority of an appropriate Government under Section 34(1) read with Section 25-U of the Industrial Disputes Act. So far as Maharashtra Act is concerned, there is no direct prosecution against a guilty party of having engaged in any unfair labour practice. Such a prosecution has first to be proceeded by an adjudication by a competent Court regarding such engagement in unfair labour practice. Thereafter, it should culminate into a direction under Section 30(1)(b) or it may be subject matter of interim relief order under Section 30(2). It is only thereafter that prosecution can be initiated against the concerned party disobeying such orders of the court as per Section 48(1). Consequently, it cannot be said that Division Bench of the Bombay High Court was not right when it took a view that the act of engaging in any unfair labour practice by itself is not an offence under the Maharashtra Act while such commission of unfair labour practice itself is an offence under the Industrial Disputes Act. However, this aspect is not much relevant for deciding controversy with which we are concerned."

15. In Chitra Srivastava [131(2006) DLT 79] High Court of Delhi has to put a gloss on the provisions of the Act with a different proposition for adjudication. It took note of the law laid by the Apex Court in Ashok Vishnu Kante (supra) and ruled that the Apex Court reached a conclusion that the provisions of the Act do not enable an industrial dispute to be raised with regard to any of unfair labour practices or its prevention, rather the provisions in this regard are penal in nature and provide for prosecution. The Apex Court in Casteribe Rajya Parivahan Karamchari Sangathan [2009 (8) S.C.C. 556] had to put gloss on the provisions of Maharashtra Act and ruled that provisions of Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 was to provide for prevention of unfair labour practices and the Industrial Tribunals and Labour Courts were empowered, if unfair labour practice is proved, to declare that unfair labour practice and direct the person indulging in it to cease and desist from such unfair labour practice and to take such affirmative action (including payment of reasonable compensation to the employees affected by such unfair labour practice). But in the Act Labour Courts or the Industrial Tribunal would invoke its jurisdiction on completion of the Act and not at the stage when a party is indulging in an unfair labour practice.

16. Section 33A of the Act grants jurisdiction to the authorities mentioned therein when an employer contravenes provisions of Section 33, during pendency of any proceedings before it. Section 33 of the Act puts an embargo on an employer not to alter conditions of services applicable to workman to his prejudice, during pendency of any proceedings, or not to punish him for any misconduct or to discharge or otherwise dismiss him, without seeking permission from the authority before whom a dispute is pending. Therefore, for invoking provisions of Section 33A of the Act, it is expedient on the part of the claimant to show that proceedings are pending before this Tribunal and during pendency of those proceedings service conditions were altered to his prejudice. As detailed above, proceedings are pending adjudication before this Tribunal. But the claimant does not opt to invoke provisions of Section 33A of the Act. In such a situation provisions of Section 33A of the Act are not triggered off. As detailed above, this Tribunal cannot invoke a jurisdiction to prevent commission of an unfair labour practice, since no such jurisdiction vests in it.

17. In view of these reasons, it is concluded that this tribunal has no power to take steps to prevent commission of an unfair labour practice. This Tribunal can invoke its jurisdiction under Section 33A of the Act or when a reference is made by the appropriate Government, under Section 10 of the Act. No such steps are taken either by the claimant or by the appropriate Government. No jurisdiction vests with the Tribunal to prevent commission of an unfair labour practice by way of issuance of a prohibitory order. Therefore, the application is not maintainable. It is dismissed. An award is accordingly, passed. It be sent to appropriate Government for publication.

Dr. R.K. YADAV, Presiding Officer

Dated: 8-5-2012

नई दिल्ली, 27 जून, 2012

का.आ. 2442.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डिस्ट्रिक्ट टेलीकॉम इंजीनियर, वी. ए. एम. एल., कांगड़ा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुवंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चड्डीगढ़ के पंचाट (संदर्भ संख्या-1308/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-6-2012 को प्राप्त हुआ था।

[सं. एल-40012/100/2006-आईआर (डीयू) |

सुरेन्द्र कुमार, अनुभाग अधिकारी

New Delhi, the 27th June, 2012

S.O. 2442.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1308/2007) of the Central Government Industrial Tribunal/Labour

Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the District Telecom Engineer BSNL Kangra and their workman, which was received by the Central Government on 27-6-2012.

[No. L-40012/100/2006-IR(DU)]

SURENDRA KUMAR, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri A. K. RASTOGI, Presiding Officer

Case No. I. D. 1308/2007

Registered on 24-5-2007

Sh. Gorkhu Ram S/o Late Sh. Rai. Singh,
VPO-Polian, Tehsil-Jawali, Kangra.Petitioner

Versus

The District Telecom Engineer,
Bharat Sanchar Nigam Limited, Kangra ...Respondent

Appearances

For the workman : Sh. D. R. Kaith

For the Management : Sh. Sanjay Goyal

AWARD

Passed on 4th June, 2012

Central Government vide Notification No. L-40012/100/2006 -IR (DU) Dated 15-2-2007, by exercising its powers under Section 10, sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal :—

"Whether the action of the management of the District Telecom Engineer, BSNL, Nurpur, in terminating the services of their workman Sh. Gorkhu Ram w.e.f. 1-4-2005 is legal and justified? If not, to what relief the workman is entitled to?"

As per amended claim statement the workman as sweeper had two stints in the management. The last stint was from January 1999 to 31-3-2005. He had completed more than 240 days continuous service during the calendar year, yet his services were terminated verbally on 31-3-2005 without complying the provisions of the Section 25-F of the Act. He has alleged the violation of provisions of Section 25-G of the Act also in terminating his services and has also alleged the appointment of fresh hands in violation of Section 25-H of the Act. He has asked for his reinstatement with continuity in service and back wages.

The management has contested the claim and have alleged that the workman had been verbally engaged for cleaning the telephone exchange on monthly charges on part time basis in 2002. Since he had been appointed part time hence, there is no question of violation of Section 25-F of the Act. There is no violation of Section 25-G of the Act. His services were terminated as they were not

required. It was denied that any fresh hand was appointed in place of workman.

In a rejoinder to the written statement it was denied that the workman was a part time employee. It was further stated that apart from cleaning the telephone exchange the workman was working as a helper also with the management and thus he had been working full time though he was being paid on part time basis.

In support of their respective cases the workman examined himself while on behalf of the management Jatin Kumar, DET was examined. The witnesses proved their respective affidavits. The management besides other papers, has filed the details of working days of the workman which is paper No. 17.

I have heard the learned counsel for the parties and perused the evidence on record. The first and foremost question for decision is whether the protection of Section 25-F of the Act can be denied to the workman on the ground that he was a part time worker? Recently in Devinder Singh Vs. Municipal Council Sanaur 2011 LAB.I.C. 2799, the Hon'ble Supreme Court has held that part time, contractual, temporary or casual employees are 'workman' within the meaning of Section 2(s) of the Act.

Hence, the protection of Section 25-F cannot be denied to the workman on the ground that he was a part time employee.

The next question is whether the workman has been in continuous service for not less than one year under the management and is entitled to the protection of Section 25-F of the Act?

As per definition Clause contained in Section 25-B of the Act, a workman will be deemed to be in continuous service for a period of one year if during a period of 12 calendar months preceding the date of termination of his service he has worked for not less than 240 days. Admittedly the services of workman were terminated w.e.f. 1-4-2005. The period from 1-4-2004 to 31-3-2005 becomes relevant for counting 240 days service.

From the details of working days of the workman contained in paper No. 17 it appears that he worked for 308 days that is more than 240 days during the period. Thus he was entitled to retrenchment compensation and notice or notice pay as per provisions of Section 25-F of the Act. Since his services were terminated in violation of Section 25-F of the Act, his termination is void and non-est.

The next question is to what relief the workman is entitled?

The management has opposed the reinstatement of the workman on the ground that he had not been appointed through any recruitment process. The learned counsel for workman on the other hand has relied on the judgment of the Hon'ble Supreme Court in Ramesh Kumar Vs. State of Haryana (2010) 2 Supreme Court Cases 543 where the Labour Court had found that the workman had worked for required 240 days and the contention that initial appointment of appellant was contrary to Recruitment Rules

and constitutional scheme of employment was not raised either before Labour Court or High Court at the first instance, the Hon'ble Apex Court upheld the direction of the Labour Court for reinstatement with continuous service. The learned counsel for the workman before the Hon'ble Court had forgone back wages awarded by the Labour Court.

In the present case neither it has been contended by the management, nor there is anything on record to show that there is a sanctioned post of sweeper in the Department and there are Recruitment Rules for filling the post. Therefore there is no question of appointing the workman in violation of the Recruitment Rules. Hence, in view of the law laid down by the Hon'ble Supreme Court in Ramesh Kumar's case (*supra*) the workman is also entitled to reinstatement with continuity of service. The workman has not contended that he remained unemployed after the termination of his service. Hence, I don't find him entitled to back wages. The management will reinstate the workman within one month from the date of publication of the award. The reference is accordingly answered in favour of the workman. Let two copies of the award be sent to Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 27 जून, 2012

का.आ. 2443.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैं, ओमन एयर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण II, मुम्बई के पंचाट (संदर्भ संख्या 87/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-6-2010 को ग्राह किया था।

[सं. एल 11012/22/2005 आईआर (सो 1)]

अजीत कुमार, अनुशासा अधिकारी

New Delhi, the 27th June, 2012

S.O. 2443.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 87/2005) of the Central Government Industrial Tribunal/Labour Court-II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management M/s. Oman Air and their workman, which was received by the Central Government on 13-6-2010.

[No. I-11012/22/2005-IR(C-I)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

K. B. KATAKE, Presiding Officer

Reference No. CGIT-2/87 of 2005

Employers in Relation to the Management of Oman Air
The Country Manager-India
Oman Air
Unit No.4
Ground floor, Atlanta Building
Plot No.209
Nariman Point
Mumbai-400 021.

AND

THEIR WORKMAN.

Late Shri John P. Kutty
C/o. Ms. Vincy John Kutty (Legal heir)
Prasanna
Flat No.3/B, 10th Road
Santacruz (E)
Mumbai-400 055.

APPEARANCES:

For the Employer Mr. Ashwin Modi, Advocate.

For the Workman Mr. B. Devdas, Advocate.

Mumbai, dated the 13th April, 2012.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-11012/22/2005-IR (C-I), dated 2-6-2005 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of M/s. Oman Air, Mumbai in terminating the services of Shri John P. Kutty w.e.f. 2-7-2003 is justified? If not, to what relief is Shri John P. Kutty entitled?”

2. After receipt of the Reference from the Ministry, both the parties were served with the notices. In response to the notice the second party workman filed his statement of claim at Ex-5. According to him, since 1999 he was serving with the first party as Customer Service Assistant Group-5. He was found medically fit when doctor examined him. Because of his good work he was assigned of the task of verifying the claim files on all India basis. For his good work he was sent to Madras and Trivandrum. He has completed the probation period successfully and was confirmed. The second party was taken ill and was admitted in Holy Family Hospital for renal kidney failure. He was bedridden for nearly one and half months. He was hospitalized from 10-7-2001 to 18-7-2001. The management was well aware of the illness of the second party. After discharge from the hospital the second party was advised to take rest till 31-8-2001. Thereafter he resumed his duties. Considering his good work he was issued certificate of employee of August 2002. The kidney ailment could not be satisfactorily cured. Hence the doctor advised him to go to Chennai and undergo kidney transplantation. The

said facts were informed to his employer by his letter asking for medical leave which was not denied by the employer. The second party went to Chennai underwent kidney transplant surgery. He was admitted in Chennai Hospital on 29-1-2002 and was discharged on 4-4-2002. The employer was well aware of the same. After kidney transplantation he resumed his normal duties on or about 5-6-2002 and worked upto 31-12-2002. He was reimbursed for his medical expenses through insurance company as he was employee of Oman Air.

3. After kidney transplantation, his knee started paining. Hence as per his doctor's advice he was admitted in the hospital. He had applied for privilege leave from 1-1-2003 to 20-1-2003 which was sanctioned by the concerned officer. Doctor in the hospital gave antibiotic dose due to which his right hand started burning and giving him intolerable pain. His fingers became bluish. The doctor detected dry gangrene and advised to amputate right thumb, little finger and ring finger of his right hand. The workman sent medical certificate of the hospital dated 21-01-2003, 25-01-2003, 11-2-2003, 26-02-2003, 7-4-2003 and 4-5-2003 and last certificate dt. 12-5-2003. Doctor advised him three months rest. The period expired on 11-8-2003. Meanwhile the first party sent him letter dt. 6-9-2003 and he was called upon to produce medical fitness certificate from the company's panel doctor within seven days. Workman replied the letter and submitted that as per the doctor's advice he was taking rest as he was recuperating from the surgery. Without verifying the truth and without conducting any inquiry the employer terminated the services of the workman by their letter dt. 2-7-2003 with immediate effect. Employer sent another letter dt. 30-17-2003 stating therein that his services were terminated from 9-1-2003. The said action is totally illegal and arbitrary. The workman was on leave till 2011-2003. His services were terminated without any inquiry. Therefore he applied to the employer for reinstatement with full back-wages. The employer rejected his demand vide their letter dated 22-8-2003. The workman is governed by the local law as per his service conditions. After recovery the workman requested the company to allow him to join duty. However his request for reinstatement was rejected. The workman is physically fit to do his work. However his services were terminated illegally. Therefore he raised dispute before the ALC (C). As conciliation failed, on report of ALC (C), the Ministry of Labour sent the reference to this Tribunal. The workman claims that he is medically fit to do his job. He therefore prays that his termination order be declared bad in law and he is entitled for reinstatement with full back-wages from 2-7-2003 with continuity of service and all other consequential benefits.

4. The first party resisted the claim vide its written statement at Ex-7. According to them, after confirmation of service the workman was absenting himself at regular intervals and not available for work on ground of some illness or the other. He was hospitalized for kidney failure and reimbursed bill of Rs. 46,029. He was again hospitalized

for kidney transplant and medical leave of 128 days was granted to him. He reimbursed sum of Rs.3,28,000/- as medical expenses. According to them, the workman was not available for work from 21-1-2003 to 2-7-2003; the day of issuance of letter of termination. The workman submitted medical certificates from Harkishandas Hospital. Due to prolonged absence of the workman, the management had called upon him by its letter dated 9-6-2003 to give fitness certificate from the panel of doctors of the company within seven days. On failure he was informed that action would be taken against him including termination of service on the ground of continued ill health. The management did not receive reply from the workman. Therefore reminder was given to him dated 16-6-2003. The workman by his letter dt. 16-6-003 expressed his inability to produce fitness certificate on the ground that he was still recuperating and that he was likely to undergo a second phase of operation shortly thereafter. In view of the attendance record of the workman wherein he was absent from 21-1-2003 to 2-7-2003 for 163 days and looking into his past record of absent for a period of 175 days, the workman was not available on account of ill health. Therefore management had no other alternative but to terminate the services of the workman. According to them, the service of the workman was rightly terminated as Airlines cannot keep He is not entitled to be reinstated. Therefore the management prays that the reference be dismissed with cost.

5. Following are the issues framed by my Ld. Predecessor at Ex-11 for my determination. I record my findings thereon for the reasons to follow:

Sl. no. Issues	Findings
1. Whether decision taken by first party of termination on the ground of continued ill health required to be maintained?	No.
2. Is second party entitled to any relief?	Yes.
3. If yes of what kind?	As per order.
4. What order?	As per order.

REASONS

Issue no.1 :—

6. In the case at hand the fact is not disputed that the workman herein was taken ill thrice for a long period. He was hospitalized due to kidney problem and was on leave for 47 days. He was advised for kidney transplantation and again he was on medical leave for 128 days. The fact is not disputed that again he was on leave for 163 days for dry gangrene and his fingers were required to be amputated. Therefore as he was absent due to ill health, the management served him with a notice dated 9-6-2003 and he was called upon to give fitness certificate within 7 days from the panel of doctors of the company. The workman replied the said notice by his letter dated 16-6-2003 and expressed his inability to produce fitness certificate from the panel doctors of the company as he

was likely to undergo second phase of operation shortly. Therefore the management terminated the services of the workman. In this respect the Ld. Adv. for the workman submitted that the services of the workman were terminated without any inquiry. Therefore the order of termination was passed in violation of the principle of natural justice. In support of his argument the Ld. Advocate resorted to Apex Court ruling in Uptron India Ltd. V/s. Shammi Bhan and Anr. AIR 1998 SC 1681 wherein Hon'ble Court in respect of termination of permanent employee without inquiry observed that:

“The services of a permanent employee whether employed by Government or Government Company or Government instrumentality or Statutory Corporations or any other authority within the meaning of Article 12 cannot be terminated abruptly and arbitrarily, either by giving him a month's or three months' notice or pay in lieu thereof or even without notice.”

7. The Hon'ble Court in this ruling also held that if there is clause in the service conditions providing automatic termination of service of permanent employee without giving him hearing, such clause is invalid. The Ld. Adv. for the second party also resorted to another Apex Court ruling in Nar Singh Pal V/s. Union of India & Ors. AIR 2000 SC 1401 wherein the Hon'ble Court observed that

“Order passed on the basis of preliminary inquiry and not on the basis of regular departmental inquiry without issuing a charge-sheet or giving opportunity of hearing being punitive in nature and liable to be set aside.”

Same principle is reiterated by Hon'ble Apex Court in L.D. Dhamnekar and anr. V/s. Management of Vishwa Bharata Sheva Samiti AIR 2001 SC 2836.

8. The Ld. Adv. also referred few other rulings. However in the light of above Apex Court rulings it is not necessary to refer other rulings. In short in the case at hand as the services of workman were terminated without initiating departmental inquiry, the said termination cannot be called legal and proper even on the ground of ill health. Therefore the said termination cannot be maintained. Accordingly I decide this issue no.1 in the negative.

Issues nos. 2 & 3:—

9. In respect of the relief I would like to point out that during pendency of the reference, workman expired. His wife and two daughters are the legal heirs. Since both his daughters are minors his wife, Mrs. Vincy John Kutty is their Guardian. She being the legal heir is prosecuting the matter. She has claimed for deemed reinstatement of her husband in service on the date of his death with full back wages, consequential benefits, annual increments, bonus, leave with pay, gratuity and insurance coverage meant for employees. She also claims all the monetary benefits along with cost of the litigation.

10. In respect of the monetary benefits such as amount of provident fund, gratuity, leave salary etc, the L/Rs are entitled to get the said amount. In respect of back-wages I would like to point out that though the termination is illegal the fact is not disputed that since the date of termination, the workman is not on duty therefore it would be unjust to award full back-wages. At the same time I would like to point out that the workman was terminated illegally without inquiry. Thus he has raised industrial dispute. In the circumstances not awarding any back-wages would also cause injustice to the workman and the members of his family as well. In the circumstances to meet the ends of justice, I think it proper to direct the first party to pay the back-wages @ 30 % p.m. since the date of his termination till the date of his superannuation or till the date of his death whichever is earlier. Thus the order:

ORDER

The order of termination of services of the workman late Shri John P. Kutty is hereby declared as illegal.

The first party is directed to pay all the monetary benefits such as Provident Fund, Gratuity, leave pay etc. to the L/Rs. of the deceased including back-wages @ 30% per month from the date of termination of the workman till the date of his superannuation or till the date of his death whichever is earlier.

Date : 13-4-2012

K. B. KATAKE, Presiding Officer

नई दिल्ली, 27 जून, 2012

का.आ. 2444.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैं. ओमन एयर के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, मुम्बई के पंचाट (आईडी संख्या-4/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-6-2010 को प्राप्त हुआ था।

[सं. एल-11012/70/2003-आईआर (सी-I)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 27th June, 2012

S.O. 2444.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 4/2004) of the Central Government Industrial Tribunal-Cum-Labour Court-II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the M/s. Oman Air and their workman, which was received by the Central Government on 13-6-2010.

[No. L-11012/70/2003-IR(C-I)]

AJEET KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI****PRESENT**

K. B. KATAKE, Presiding Officer

Reference No. CGIT-2/4 of 2004

Employers in Relation to the Management of Oman Air

The Country Manager-India

Oman Air

G-1, Ground floor,
Maker Chambers-VI
220, Nariman-Point
Mumbai 400 021.**AND****THEIR WORKMAN:**

Late Shri Raju S. Nagora
 C/o. Ms. Kavita R. Nagora
 & 2 Ors. (Legal heirs)
 101, 1st floor, A-Wing
 Paradise Co-op. Society
 Near Shantiwan Mhada
 Oshiwara, Andheri (W)
 Mumbai 400 058.

APPEARANCES:

FOR THE EMPLOYER Mr. Ashwin Modi Advocate.

FOR THE WORKMAN Ms. Delilah Fernandes,
 Advocate.

Mumbai, dated the 12th April, 2012

AWARD

The Government of India, Ministry of Labour & Employment by its Order No L-11012/70/2003-IR (C-I), dated 14-1-2004 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of M/s. Oman Air, Mumbai in terminating the services of Shri Raju S. Nagora w.e.f. 15-2-2002 is justified? If not, to what relief is Shri Raju S. Nagora entitled?”

2. After receipt of the Reference from the Ministry, both the parties were served with the notices. In response to the notice, the second party workman filed his statement of claim at Ex-8. According to him, he was working with the first party Oman Air as a casual worker since 1996. Two years thereafter he was made permanent w.e.f. 1-11-1998. On 25-5-2002 the workman met with a serious accident and he was bedridden. He is widower having two minor children and elder daughter and old mother. There was no body to report the first party about his accident. After about a month of the accident, on 26-6-2002, the workman went to join his duties with necessary medical certificates. However the authorities

refused to allow him to work. He was directed to meet concerned manager Mr. Vasser. Concerned Manager orally informed him that his services were terminated. The workman did not receive any intimation or letter of termination. Therefore he sent a letter dated 14-11-2002 to the management requesting to supply him the necessary copies in relation to his termination. Management replied the letter. However did not supply or enclose the copies in respect of his termination. Management has mentioned in their reply that services of the workman were terminated on 15-2-2002. The contention to that effect is false. According to him he was regularly attending to his duties till 25-5-2002 and till date he was orally informed about the termination of his services. There was no inquiry or any show-cause notice issued to him. He never received notice dt. 9-8-2002 or the letter dt. 19-8-2002. Therefore question of replying them does not arise. The alleged order of termination dated 15-2-2002 is false and illegal. Wrong information was given to the workman when he had gone to join his duties on 26-6-2002. His services were terminated without show-cause notice and inquiry. Therefore the workman prays that the order of termination of his services be declared as illegal and void and he be reinstated in the service with back-wages and consequential benefits. During pendency of the reference, the workman expired. His daughter and two sons are brought on record. They pray that in place of their father, they be appointed on compassionate ground. They also pray for monetary dues and back-wages and all the consequential benefits the workman was entitled to receive.

3. The first party management resisted the statement of claim vide its written statement Ex-16. According to them, the reference is misconceived, unsustainable, untenable and bad in law. They denied all the contents in the statement of claim. According to them, he was appointed as labourer as Job Grade-I in Mumbai on probation basis vide letter dt. 14-10-1998. He was confirmed in the service vide letter dt. 13-2-1999. They denied that he was regular and sincere in his working. During the period 20-11-2000 to 15-2-2002 there were several incidences of unauthorized absence of the workman. He was repeatedly warned verbally and in writing in this regard. Workman has given several written apologies and pleaded for leniency. Show-cause notice was issued to him dated 13-2-2001 for absenting himself from work. He replied the notice vide his letter dt. 16-2-2001. Once again he apologized and admitted his fault and assured not to repeat the same. Again a memo dated 21-5-2001 was issued to him for unauthorized absenteeism from 1-5-2001 to 15-5-2001. He replied the memo and pleaded for forgiveness. Another show-cause notice dt. 9-8-2001 was issued to him. He replied the notice, admitted the fault and assured that it will not be repeated again. A show-cause notice was issued to workman on 14-1-2002 as to why action should not be taken against him for remaining absent from 5-11-2001 without any permission or intimation. He acknowledged the show-cause notice. In reply dated 20-12-2002, inadvertently, year in the letter dated 19-8-2001 and 9-8-2001 and 16-8-2001 have been wrongly typed as 2002 instead of 2001. The workman neither replied show-

cause notice dated 14-11-2002 nor reported to work. Therefore his services were terminated by letter dated 15-2-2002. The contents in the statement of claim are false. The workman received the letter of termination dated 15-2-2002. He has made false allegations. His service was terminated lawfully as he did not reply notice dated 14-1-2002. Therefore the management submitted that the reference is devoid of merit. The workman voluntarily abandoned his services at his own. Therefore, they pray that the reference be dismissed with cost.

4. My Ld. Predecessor has framed following issues for my determination. I record my findings thereon for the reasons to follow:

Sr.no.	Issues	Findings
1.	Whether terminating second party w.e.f. 15-2-2002 is legal and proper?	No.
2	Whether first party proves that workman has voluntarily abandoned his services?	No.
3.	What relief second party is entitled to get?	As per order.
4.	What order?	As per order.

REASONS

Issue no.1 & 2:-

5. Both these issues are interlinked therefore they are discussed and decided simultaneously. According to the first party, the workman was absent from 5-11-2001 to 14-1-2002 without any intimation. Therefore a show-cause notice was issued dated 14-1-2002. According to the first party the workman replied the show-cause notice by his letter dated 20-12-2002. According to them inspite of receipt of notice, workman neither gave satisfactory reply nor reported his duty. Therefore the first party terminated his services by their letter dated 15-2-2002. In this respect the Ld. Adv. for the first party rightly submitted that though show-cause notice was issued, the first party has contended in their written statement at Ex-16 that the workman replied the said notice. However the reply was not satisfactory and as workman did not resume his duties, they terminated his services. When reply was not satisfactory, the first party ought to have initiated inquiry against the workman. Instead of initiating inquiry, the first party terminated the services of the second party without giving him any opportunity to defend himself. It amounts to violation of principles of natural justice. In the circumstances, it cannot be said that the workman has abandoned his services as has been alleged. On the other hand workman has contended in his statement of claim Ex-8 as well as in his affidavit that on 25-5-2002 he met with an accident. He was bed-ridden and there was no body in his family to inform the office about his accident and inability to attend his duty. It is further submitted in the statement of claim as well as in his affidavit at Ex-26 that, on 26th June workman reported his duty with necessary medical certificate but the authorities refused to allow him to work and he was asked to report concerned Manager Mr. Vasser, AM. It is further contended that

Manager orally informed him that his services were terminated. This version of the workman is not denied either in his cross examination or in the evidence of the management witnesses. Though management has filed affidavits of two witnesses at Ex-29 & 31, however both these witnesses did not remain present for cross examination. Therefore the evidence of these two witnesses who have not undergone cross examination cannot be read in evidence. In short, the version of the first party that workman abandoned his services is unacceptable. From the pleading of the first party in the written statement, it is revealed that they have terminated his services by their letter dated 15-2-2002. The said order of termination is in violation to the principles of natural justice. No charge was framed and no inquiry was conducted against the workman. In the circumstances it needs no more discussion to arrive me at the conclusion that the termination of the workman is not legal and proper. Thus I decide the issues no.1 & 2 in the negative.

Issue no.3:-

6. In respect of the relief I would like to point out that, during pendency of the reference, workman expired. His L/Rs are prosecuting the matter. They have claimed all the monetary benefits and full back-wages of the deceased. They have also claimed service on compassionate ground.

7. In respect of the monetary benefits such as amount of provident fund, gratuity, leave salary etc, the L/Rs are entitled to get the said amount. In respect of back-wages I would like to point out that though the termination is illegal the fact is not disputed that since the date of termination the workman is not on duty. Therefore it would be unjust to award full back-wages, without work by the workman. At the same time I would like to point out that the workman was terminated illegally and has raised industrial dispute. He is from poor working class. In the circumstances not awarding any back-wages would also cause injustice to the workman and his family members. In the circumstances to meet the ends of justice, I think it proper to direct the first party to pay the back-wages @ 30 % per month since the date of his termination till the date of his superannuation or till the date of his death whichever is earlier.

ORDER

(i) The order of termination of services of the workman late Shri Raju Nagora is hereby declared as illegal.

(ii) The first party is directed to pay provident fund, gratuity, leave salary and all the monetary benefits to the L/Rs of the deceased including back-wages @ 30% per month from the date of termination of services of the workman till the date of his superannuation or till the date of his death whichever is earlier.

(iii) One of the heirs of the deceased workman is entitled to get employment with the first party on compassionate ground.

Date: 12-4-2012

K. B. KATAKIE, Presiding Officer

नई दिल्ली, 28 जून, 2012

का.आ. 2445.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी.एल. के प्रबंधतांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-I, धनबाद के पंचाट (संदर्भ संख्या-69/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-06-2012 को प्राप्त हुआ था।

[सं. एल-20012/26/1991-आईआर (सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 28th June, 2012

S.O. 2445.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 69/1991) of the Central Government Industrial Tribunal-cum-Labour Court-I, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of M/s. BCCL and their workman, which was received by the Central Government on 19-06-2012.

[No. L-20012/26/1991-IR (C-I)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of the
Industrial Diaputes Act, 1947

Reference No. 69 of 1991

Parties : Employers in relation to the management of
Block-II Open Cast Project of M/s. BCCL

AND

Their Workmen

Present : Shri H. M. Singh, Presiding Officer

Appearances :

For the Employers : None

For the Workmen : Shri D. Mukherjee, Secretary,
Bihar Colliery Kamgar Union.

State : Jharkhand : Industry : Coal

Dated, the 14th June, 2012

AWARD

By Order No. L-20012/2/9.1-IR (Coal-I) dated 22-7-91 the Central Government in the Ministry of Labour has, in exercise of the Powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the management of Block-II O.C.P. of M/s. BCCL is justified in changing the designation, category from higher to lower and nature of job from skilled to unskilled of the following workmen by way of giving notice under Sec. 9(A) of the ID Act, 1947? If not, to what relief the workmen are entitled to?"

1. Shri Nathu Mahato, 2. Sh. Mungeshwar Dusadh,
3. Sh. Inderdev Paswan, 4. Sh. Atwari Mahato,
5. Sh. Hiraman Mahato, 6. Sh. Tribki Mahato,
7. Sh. Ishwar Mahato, 8. Sh. Jagu Mahato,
9. Sh. Charku Mahato, 10. Sh. Sanichar Mahato
No. 1, 11. Sh. Sanichar Mahato No. 2."

2. The case of the concerned workmen is that they had been working in the posts mentioned in the annexure since more than ten years and in view of that an Office Order dated 22-4-90 was issued wherein and whereby they were promoted to the next higher grade as per CWA-IV. But the Addl. Chief Mining Engineer/Agent Block-II OCP issued a notice dated 30-5-90 wherein and whereby demoted the concerned workmen to lower category as mentioned in Annexure 'A' in the garb of changing service condition by issuing a notice Under Sec. 9-A of the I.D. Act. The union and the concerned workmen protested against the illegal action of the management but without any effect. An industrial dispute was raised against the illegal and arbitrary action of the management. But the conciliation proceeding ended in failure and thereafter this dispute has been referred to this Tribunal for adjudication.

The action of the management in changing the designation, category from higher to lower and nature of job skilled to unskilled by issuing a notice under Sec. 9-A was illegal, arbitrary, unjustified and against the principles of natural justice.

It has been prayed that the Hon'ble Tribunal be pleased to pass an award in favour of the workmen.

3. The case of the management is that the concerned two workmen were previously working as Trammer and were in Category-III before their transfer to Block-II OCP. As no job of Trammer was available at Block-II OCP the above workmen were provided with alternative job of Explosive Carrier which job is in Category-II.

They could not be provided in any other job of higher category after examining their skill, knowledge and experience so far as working in O.C.P. is concerned. They were authorised as Explosive Carrier and they accepted the same and continued to work on that job. All the concerned workmen in the reference continued to get their category wages so long they were continuing on all alternate jobs. They demanded for their regularisation on alternative jobs when the proposal for their transfer to other collieries on their substantive jobs was considered. The concerned workmen did not prefer to be transferred as Trammer to other collieries and requested for their

regularisation as Explosive Carrier at the Open Cast Project. They were regularised as Explosive Carrier in Category-II. Their wages were protected and they were fixed in the scale of Category-II at the appropriate stage taking into consideration the wages they were earning in Category-III. The management offered to transfer them back to the post of Trammer to other collieries at the time of conciliation proceedings also. The concerned workmen declined to accept it. Thus the management had no alternative but to issue them notices under Sec. 9-A of the I.D. Act and to regularise them on the job of Explosive Carrier and to pay them Category-II wages on the principle of equal pay for equal work. The present demand of the concerned workmen for Category-III while working as Explosive Carrier and refusing to work as Trammer is without any merit and cannot be acceded to.

It has been prayed that the Hon'ble Tribunal be pleased to pass an award holding that the concerned workmen are not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. Management produced MW-1, Parmanand Choudhary, who stated that the concerned workmen were transferred to Block-II areas from other collieries, and they joined their duties there.

On behalf of the concerned workmen no evidence has been produced.

Considering the facts and circumstances it shows that the concerned workmen did not prefer to be transferred as Trammer to other collieries and requested for their regularisation as Explosive Carrier at the Open Cast Project. They were regularised as Explosive Carriers in Category-II. Their wages were protected and they were fixed in the scale of Category-II at the appropriate stage taking into consideration the wages they were earning in Cat-III.

6. Considering the above facts and circumstances, I hold that the management of Block-II O.C.P. of M/s. BCCL is justified in changing the designation, category from higher to lower and nature of job from skilled to unskilled of the concerned workmen by way of giving notice U/s. 9-A of the I.D. Act.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 29 जून, 2012

का.आ. 2446.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बाज, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/श्रम न्यायालय-I, नई दिल्ली के पंचन् (संदर्भ

संख्या-107/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-06-2012 को प्राप्त हुआ था।

[सं. एल- 12011/15/2008-आईआर (बी-II)]

श्रीश. राम, अनुभग अधिकारी

New Delhi, the 29th June, 2012

S.O. 2446.—in pursuance of Section 17 of the Industrial Disputes Act, 1947, the Central Government hereby publishes the Award (Ref. No. 107/2011) of the Central Government Industrial Tribunal-cum-Labour Court-I, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Syndicate Bank and their workman, which was received by the Central Government on 28-06-2012.

[No. L-12011/15/2008-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO.1, KARKARDOOMA COURTS
COMPLEX, DELHI**

ID No. 107/2011

Shri Ravinder Kumar
Jai Jawan Jai Kisan Export Karamchari Union,
Balmukund Khand, Giri Nagar, Kalkaji,
New Delhi.

...Workman

Versus

The Zonal Manager, Syndicate Bank
Sarojini House, 6 Bhagwan Dass Road,
New Delhi

...Management

AWARD

Shri Ravinder Kumar was engaged as personal driver by Shri Itty Thomas, Chief Manager, Lajpat Nagar Branch of Syndicate Bank (in short the bank). Shri Thomas used to pay his salary and then claim reimbursement from the bank, since as per policy the bank pays personal allowance to Scale IV officers to enable them to employ personal drivers of their own. Services of the claimant were dispensed with by Shri Thomas on 5-11-2005. The claimant sent a notice of demand on 27-12-2005 seeking his reinstatement in services of the bank. When his demand was not conceded to, he raised an industrial dispute before the Conciliation Officer. Since conciliation proceedings failed, the appropriate Government referred the dispute for adjudication to Central Government Industrial Tribunal No. II, New Delhi, vide order No. L-12011/15/2008-IR (B-II) New Delhi dated 21-05-2008, with following terms :

"Whether the action of the management of Syndicate Bank in terminating the services of Shri Ravinder Kumar, Driver w.e.f. 5-11-2005 is just and legal? If not, what relief the concerned workman is entitled and from which date?"

2. Claim statement was filed on behalf of the claimant pleading therein that he was appointed as driver by the bank on 25-11-2003 and his last drawn wages were Rs. 4100.00. He worked to entire satisfaction of the bank, without giving any chance of complaint to his superiors. Neither appointment letter, nor attendance card nor leave card etc. were issued to him. No register of any type was maintained in respect of payment of bonus or overtime allowance etc. to him. He raised a demand for these facilities, which demand annoyed the bank. His services were terminated on 5-11-2005, without serving any charge sheet or holding enquiry against him. Action of the bank, in terminating his services, is violative of the provisions of Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). His earned wages from 1-11-2005 to 5-11-2005 were not paid. Shri Kishan, Shri Bir Singh and Shri Subhash, his juniors, were appointed in regular service by the bank, after termination of his services. He had also made a request to the bank for regularization of his services, which was never conceded to. Appointment of the aforesaid persons as regular driver is in violation of the provisions of Section 25G of the Act. He projects that he is unemployed since the date of termination of his services. He claims reinstatement in services of the bank with continuity and full back wages.

3. Bank made a demurral, projecting that the claimant was working as personal driver of Shri Itty Thomas, Chief Manager, Lajpat Nagar branch of the bank. He was never appointed by the bank. He was in no way connected with the functioning of the bank. As per rules, the executives in Scale IV are entitled to get reimbursement of expenses incurred by them on their personal driver to the prescribed limit. The claimant was not an employee of the bank and relationship of employer and employee between the parties were never created.

4. The bank, being a nationalized bank, appoints employees as per-recruitment rules, after issuing advertisement of posts to public at large, which process is to be followed by test and interview. The claimant never submitted any application form for his appointment to any category. No appointment letter was issued in his favour by the bank. He, being personal driver of an executive of the bank, cannot make any claim against the bank. The bank formulated policy to absorb personal drivers working with its officers, subject to fulfillment of certain conditions. Letter dated 1-04-2008 was issued in that regard, wherein qualification for absorption of personal drivers were laid down. The claimant did not seek his absorption in the

service of the bank. Even otherwise, he was not eligible to be absorbed in the services of the bank, as per guidelines laid down in that regard. Shri Itty Thomas was making payment of wages to the claimant and the bank made reimbursement to Shri Thomas up to the tune of Rs. 4100.00 p.m., as expenses incurred for engaging personal driver. For his absorption in the services of the bank, the claimant ought to have rendered atleast 6 years service, besides being within the age group of 18 years to 28 years plus actual services rendered by him, subject to maximum of 10 years. He should have passed 6th standard examination but ought not to have obtained senior secondary school examination certificate on cut off date of eligibility. Shri Kishan, Shri Bir Singh and Shri Subhash were not juniors to him. Shri Kishan had rendered 86 months service as personal driver between 4-06-97—5-04-2008, Shri Bir Singh had rendered 74 months service as personal driver between 4-01-2002 to 30-04-2008 and Shri Subhash had rendered 75 months service as personal driver from 4-01-2002 to 13-08-2010. They were absorbed in service of the bank in the year 2010 when they were found eligible, as per guidelines circulated in letter dated 1-04-2008. The claimant only worked for 23 months as personal driver with Shri Itty Thomas, hence was not eligible for absorption. It cannot be claimed that the bank violated provisions of 25F or 25G of the Act. When notice dated 27-12-2005 was served on the bank, vide letter dated 9-01-2006, the claimant was advised to contact Shri Itty Thomas. Claim put forward by Shri Ravinder Kumar is not maintainable, projects the bank.

5. Vide order No. Z-22019/6/2007-IR(CII) / New Delhi, dated 30-03-2011, appropriate Government transferred the dispute to this Tribunal for adjudication.

6. The claimant has examined himself in support of his claim. Shri Murali Iyer entered the witness box to testify on behalf of the bank. The claimant as well as Shri Iyer again entered the witness box, since claim statement was amended by the claimant. No other witness was brought forward by either of the parties.

7. Arguments were heard at the bar. Shri K.S. Rajput, authorised representative, advanced arguments on behalf of the claimant. Shri Rajesh Mahendru, authorised representative, made his submission on behalf of the bank. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the records. My findings on issues involved in the controversy are as follows:

8. In his affidavit Ex WW1/A, tendered as evidence, the claimant swears that he was appointed in the bank on 25-11-2003 as driver. He was getting a salary of Rs. 4100 p.m. He worked with the bank honestly and diligently. His service period remained unblemished and satisfactory. Neither an appointment letter nor pay slip was issued in

his favour. The bank did not maintain any type of register, such as Attendance Register or ESTC register. In pursuance of letter issued by the bank, he made a declaration on 8-4-2004, copy of which is Ex. WW1/1. When he made a demand for appointment letter, it annoyed the bank. His services were terminated on 05-11-2005 without giving any charge sheet and holding enquiry. He sent notice of demand dated 27-12-2005, copy of which is Ex. WW1/2. Reminder dated 14-01-2006 was sent, copy of which is Ex. WW1/7. During the course of his cross examination, he projects that he came to know from his brother Jagdish that there was vacancy in the bank. He approached the bank and submitted his biodata to the PRO. He admits that Shri Itty Thomas used to pay wages to him in cash.

9. In his affidavit, Ex WW1/B, tendered as additional evidence, the claimant that personal driver, namely, Shri Kishan, Shri Bir Singh and Shri Subhash were made permanent by the bank. They were junior to him. During the course of his cross examination, he concedes that Ex. WW1/M1, Ex. WW1/M 2 and Ex. WW1/M 3 were circulated by the bank for absorption of personal drivers in service of the bank. When question as to how he claims that Shri Kishan, Shri Bir Singh and Shri Subhash were juniors to him was put to him, the claimant adopted posture of silence. He conceded that he was working as personal driver of the Bank.

10. Shri Murali Iyer swears in his affidavit Ex. MW1/A, tendered as evidence, that the claimant was never appointed by the bank at any point of time. He was working as personal driver of Shri Itty Thomas, Chief Manager, Lajpat Nagar branch of the bank. He declares that as per rules, executives in Scale IV are entitled to get reimbursement of expenses incurred by them on their personal drivers upto a prescribed limit. Shri Itty Thomas was making payment of salary to the claimant. Bank was reimbursing a sum of Rs. 4100.00 per month to Shri Itty Thomas, as expenses incurred by him for engaging a personal driver. The claimant never tendered any application to the bank for his appointment to any post. Since he was not in the employment of the bank, there was no question of payment of wages, bonus or overtime allowance. When services of the claimant were dispensed with by Shri Itty Thomas, he send a notice of demand dated 27-12-2005. Vide reply dated 09-01-2006, he was advised to contact Shri Itty Thomas. During the course of his cross-examination, Shri Iyer conceded that Shri Thomas was using a vehicle of the bank, which was driven by the claimant. He projects that there is a policy of the bank to absorb personal drivers in its services.

11. In his additional affidavit, Ex. MW1/B, Shri Iyer presents that personal driver engaged by executives of the bank, who had rendered six years service or more is eligible for absorption, as per eligibility criteria and

conditions laid down in circular dated 01-04-2008. Circular dated 10-07-2009 and 27-09-2010 were also issued in that regard. Shri Bir Singh was engaged as personal driver in January 2002 and worked for more than six years in that capacity. Shri Kishan was initially engaged on 11-06-1997 and worked for 81 months when he was considered for absorption. Shri Subhash was initially engaged as personal driver on 04-01-2002 and worked for more than six years in that capacity. Shri Kishan, Shri Bir Singh and Shri Subhash fulfilled eligibility criteria. Hence they were absorbed in its services by the bank. The claimant had rendered about 2 years service as personal driver, hence he was not eligible for absorption. During cross-examination, he concedes that the bank had not filed attendance record of Shri Kishan, Shri Bir Singh and Shri Subhash for the period they worked as personal drivers.

12. When facts unfolded by the claimant and Shri Murali Iyer were closely perused, it came to light that the claimant admits that Shri Itty Thomas used to pay his wages in cash. He further admits that no employee number was issued to him by the ——It is not disputed fact that the claimant was never called by the bank for employment. No appointment letter was issued by the bank to the Identity card was not issued to the claimant by the bank. Claimant concedes that wages of the employees of the bank are transmitted to their SB accounts while his wages were paid in cash by Shri Itty Thomas. In his cross-examination dated 02-02-2002, he makes a candid admission that when he was working as personal driver he does not have any information relating to other personal drivers working at that time. Therefore, it is evident that the claimant has no better case than being employed as personal driver with Shri Itty Thomas.

13. The claimant was engaged as personal driver by Shri Itty Thomas. Expenses incurred on the wages of the claimant were being reimbursed by the bank to Shri Thomas up to the prescribed limit. The mere fact that the claimant used to drive vehicle of the bank for Shri Itty Thomas would not establish any relationship of employer and employee between the claimant and the bank. With such proposition, the Apex Court was confronted in Gulam Dastgir (AIR 1978 SC 481). In that case the Area Manager of a nationalized bank was being given personal allowance by the bank to enable him to employ personal driver of his own. The jeep which was being driven by the driver belonged to the bank. Its petro! and oil requirements and maintenance were within the financial responsibility of the bank. There was no evidence to the effect that the driver was employed by the bank or under its directions and control. There was also no evidence that the salary of the driver was paid by the bank. Considering all these aspects, Apex court ruled that there was no case of camouflage and sham contract. When the driver was engaged by the Area Manager, there existed no control and supervision over the driver by the bank, which fact

negated existence of relationship of employer and employee between the parties. Nothing unusual was noticed by the Apex Court when the bank gave allowance to its officer for engaging services of a personal driver. The said precedent is squarely applicable to the present controversy.

14. Claimant may seek reliance on a precedent in Ghanshyam [JT 2001 (Supp. I) SC 229] wherein the Apex Court was concerned with the powers contained in Section 17-B of the Act. It was ruled therein that Section 17-B of the Act does not preclude the High Courts or the Apex Court under articles 226 and 136 of the Constitution from passing appropriate interlocutory orders, having regard to the facts and circumstances of the case. The court may, depending on the facts of a case, direct payment of full wages under Section 17-B of the Act only by the employer of the workman. The question whether the workman is entitled to the full wages last drawn or full salary, which he would be entitled to in the event of reinstatement while the award is under challenge in the High Court or Apex Court, depends upon the terms of the orders passed by the court, which has to be determined on the interpretation of the order granting relief.

15. In that matter Ghanshyam was engaged as personal driver by the regional Manager of the Dena Bank at Lucknow. At the end of tenure of the regional Manager, services of Ghanshyam were terminated w.e.f. August, 90. He raised an industrial dispute and the industrial adjudicator passed an award holding that Ghanshyam was driver of the bank, termination of his services was uncalled for, hence he was ordered to be reinstated with back wages. The correctness of the award was assailed before the High Court of Judicature at Allahabad. Vide order dated 4-5-2000 High Court directed that Ghanshyam be paid wages in regular pay scale w.e.f. December, 6, 1996, within one month from the date of production of the certified copy of that order, failing which the appellant was directed to appear before the court on 4-7-2001. The said order was under challenge before the Apex Court. The Apex court ruled that by the interim order High Court did not grant relief in terms of Section 17-B, nay there is reference to that Section in the order. Therefore, question of payment of "full wages last drawn" to Ghanshyam does not arise. Consequently it is evident that the precedent relied in Ghanshyam would not espouse the case of the claimant.

16. Ghomarbhai Harjibhai Rabari [2005(2)LLJ 475] presents a situation when a personal driver engaged by the Executive of Bank of Baroda was held to be an employee of the bank. In that case, the driver produced three vouchers which showed that he had been paid certain sums of money towards his wages and the said amount has been debited to the account of the bank. The bank could not rebut those vouchers. Signatures of the driver

were also there on the register maintained by the bank. These facts led the Apex Court to conclude that relationship of employer and employee existed between the driver and the bank.

17. Here in the present controversy, the claimant could not show that his wages were paid by the bank or his name appeared in attendance register or payment scroll maintained by the bank. On the other hand, the claimant admits that he was personal driver of Shri Itty Thomas. Consequently, the precedence in Gulam Dastgir (Supra) rules the field as far as facts of the present controversy are concerned. Relying the said precedent and on consideration of the facts of the present controversy, it is concluded that the claimant was working as a personal driver to Shri Itty Thomas. There existed no relationship of employer and employee between the claimant and the bank.

18. Since there existed no relationship of employer and employee between the claimant and the bank, termination of services of the claimant by Shri Itty Thomas, nowhere violates provisions of the Act. It cannot be said that the claimant was an industrial employee and a workman within the meaning of clause (s) of Section 2 of the Act. It cannot be said that dispensation of his services amounted to retrenchment within the meaning of clause (oo) of Section 2 of the Act. Under these circumstances provisions of Section 25-F, 25-G and 25-H of the Act nowhere come for rescue of the claimant. He is not entitled to any relief from the bank.

19. There is other facets of the coin. As projected, the bank introduced a policy for absorption of personal drivers as 'Driver-cum-Attender'. The policy was circulated on 01-04-2008, which circular has been proved as Ex. WW1/M1. Two other circulars were also issued, one on 10-07-2009 and the other on 27-09-2010, which are Ex. WW1/M2 and Ex. WW1/M3 respectively. As creep out of Ex. WW1/M 1, for absorption in service of the bank a personal driver must have driven bank's vehicle for more than six year. He should be in age bracket of 18-28 years plus actual service rendered as personal drivers subject to maximum of 10 years service. In cases of SC/ST and OBC candidates, relaxation of 5 years and 3 years in age respectively, was also admissible. Personal drivers should have passed 6th standard but ought not to have obtained Senior Secondary School Certificate, as on eligibility date. Contents of the circular Ex. WW1/M2 and Ex. WW1/M3 are facsimile to those detailed in Ex. WW1/M1. Consequently, it has been brought over record that personal drivers, serving executive of the bank, who had rendered more than six years service and falls within the age bracket and qualification on cut off date notified in the circular referred above, were eligible for absorption in services of the bank as 'Driver-cum-Attender'.

20. As unfolded by Shri Iyer, Shri Bir Singh was initially engaged in January 2002 and had rendered more than 6 years service as personal driver when his case was considered for absorption. Shri Kishan was initially engaged on 11-06-1997 and had rendered more than 81 months service when his case was considered for absorption. Shri Subhash was initially engaged on 04.01.2002 and had rendered more than 6 years service when his case was considered for absorption in the service of the bank.

21. The claimant projects that he was not considered for absorption in services of the bank. Though he made a faint attempt to assert that Shri Bir Singh, Shri Kishan and Shri Subhash were juniors to him, in the capacity of personal drivers, yet he could not establish that fact. It has been highlighted by Shri Murali Iyer that the claimant did not fulfill eligibility criteria for being considered for absorption as 'Driver-cum-Attender' with the bank. Testimony of Shri Iyer could not be dispelled by the claimant, when the former was grilled by him. It was for the claimant to prove that he stood on equal footing with Shri Bir Singh, Shri Kishan and Shri Subhash, to claim equal treatment.

22. Equality before law and equal protection of laws are fundamental rights of every person, ordains Article 14 of the Constitution. The guiding principles laid in Article 14 are persons, who are similarly situated, shall be treated alike both in privileges Conferred and liability imposed, which means that amongst equals the law should be equal and should be equally administered and that like should be treated alike. Article 16 of the Constitution guarantees equality of opportunities for all citizens in matters relating to employment or appointment to any office under the State. What is guaranteed is the equality of opportunity. Like all other employers, government is also entitled to pick and choose from amongst a large number of candidates offering themselves for employment. But the selection process must not be arbitrary. The guarantee given by clause (a) of Article 16 of the Constitution will cover (a) initial appointments (b) promotions (c) termination of employment (d) and matters relating to salary, periodical increments, leaves, gratuity, pension, age of superannuation etc. Matters relating to employment or appointments include all matters in relations to employment both prior and subsequent to the employment which are incidental to the employment and form part of the terms and conditions of such employment.

23. Fundamental rights guaranteed by article 14 forbids class legislation, but does not forbid classification or differentiation which rests upon reasonable ground of discretion. Classification is the recognition of the relations, and in making it the government must be allowed a wide latitude of discretion and judgment. In a way, the

consequences of such classification would undoubtedly be to differentiate persons belonging to that class from others. The classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and the differentia must have a rational relation to the object sought to be achieved. Classification may be made according to the nature of persons, nature of business, and may be based with reference to time.

24. Concept of equality guaranteed by Article 16 of the Constitution is something more than formal equality and enables the underprivileged groups to have a fair share by having more than equal chance and enables the state to give favoured treatment to those groups by achieving real equality with reference to social needs. 'Protection discrimination' enabled the state to adopt new strategy to bring underprivileged at par with the rest of the society, by providing all possible opportunities and incentives to them. Therefore a class may be allowed to have preferential treatment in the matter relating to employment or appointment. There cannot be rule of equality between members of separate and independent group of persons. Persons can be classified in different groups, based in terms of nature of persons, nature of business and with reference to time. Therefore classification based on experience, in relation to time for which personal drivers employed by the officers of the bank had served, has a reasonable differentia.

25. To claim equality with Shri Kishan, Shri Bir Singh and Shri Subhash, it was for the claimant to show that he stood on equal footing with them. The claimant has miserably failed to bring her record that he was at par with the aforesaid drivers, who were absorbed services of the bank. He could not show that he had rendered more than 6 years service as personal driver and satisfy eligibility criteria relating to age and qualification, as notified in Ex WW1/M1 to M3. As projected by Shri Iyer, the claimant had rendered only 2 years of service as personal driver and was not eligible for consideration for absorption as 'Driver-cum-Attender' with the bank. In such a situation, the claimant does not stand at par with the personal drivers, whose services were absorbed by the bank. When claimant did not fall in the same bracket as the aforesaid personal drivers were placed, it cannot be said that the claimant was discriminated. When he was not discriminated, absorption of the claimant in service of the bank cannot be ordered since it would amount to back door entry in the Government job. Law to this effect was laid by the Apex Court in Uma Devi [2006 (4) SCC 1]. In view of these facts it is abundantly clear that the claimant is not entitled for relief of absorption in the services of the bank on the ground of parity with the aforesaid personal drivers, who were absorbed in the service of the bank.

26. As detailed above, the claimant has no case, either for reinstatement or absorption in service of the bank. He is not entitled to any relief. His claim is liable to be dismissed. Consequently, his claim is dismissed and an award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

Dated : 28-05-2012

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2447.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-2, धनबाद के पंचाट (आईडी संख्या 66/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-06-2012 को प्राप्त हुआ था।

[सं. एल-20012/130/2002-आईआर (सीएम-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2447.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 66/2002) of the Central Govt. Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the Industrial dispute between the management of BCCL and their workmen, received by the Central Government on 29-06-2012.

[No. L-20012/130/2002-IR (CM-I)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

Present: Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

Reference No. 66 of 2002.

Parties : Employer in relation to the management of Bhowra (S) Colliery, E. J. Area of M/s. BCCL and their workman.

Appearances :

On behalf of the workman : Mr. S. N. GOSWAMI, LD. Adv. ;

On behalf of the Employer : Mr. U. N. Lal, LD. Adv. ;

State : Jharkhand Industry : Coal

Dated, Dhanbad, 30 May, 2012.

AWARD

The Government of India, Ministry of Labour in exercise of the power conferred on them under Section

10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/130/2002-IR (CM 1) dtd. 26-7-2002.

SCHEDULE

"Whether the demand of the Bihar Mines Lal Jhanda Mazdoor Union from the Management of Bhowra (S) Colliery of M/s BCCL for regularisation of Shri Ashok Kumar Chatterjee in Clerk Gr. III w.e.f. 6-1-1994, is proper and justified? If so, which relief the workman is entitled to?"

2. The case of workman Ashok Kumar Chatterjee is that he is the permanent employee of Bhowra (South) Colliery Area No. XI of M/s. BCCL, and has been unblemishedly performing his duty as M/Loader since 27-11-1987 since his appointment as per the Appointment Letter dtd. 20-10-1987. But the Management engaged him alongwith other D.C.L. Samer Kumar Bauri to work as Sand Munshi at 37/38 Incline as per the Office Order No. PD/BH (S) 89/Staff/1535 dtd. 18/19-9-1989 of the Agent of the Colliery, and since then, the workman had been performing the job of Sand Munshi, the post initially in Clerical Gr. III, then in promotion to the Clerical Gr. II as per the Nomenclature Job description and Categorisation of Coal Employee and Pay Scale provided in the N.C.W.A. Further, the workman was authorised to work in Bill Section, withdrawing from the work of the Sand Munshi w.e.f. 29-3-1990 as per the office order No. PS/BII (S)/90/13/478 dtd. 31-3/3-4-1990 issued by the Colliery Agent. He has been performing the job assignment of Bill Clerk which is of Clerk Gr. II he was regularized as Clerk from D.C.L. as per the office order dtd. 4-3-1994. Again pleaded case of the workman is that his regularization as Clerk in Gr. III w.e.f. 06-01-1994 by the Management is wrongful and irregular as contrasted with his due regularization accordingly in the year 1989, since then serving till 06-01-1994, and in Clerk Gr. II w.e.f. 06-01-1994 and Clerk Gr. I from 2000, putting his attendance more than 240 days in each calendar year continuously. So he is accordingly entitled to aforesaid Clerical Gr. with pay scale and differences of wages and other benefits, and thus the aforesaid demand of the Union for the workman is bonafide and justified.

3. Further pleading of the Union/workman is that though he had submitted the Xerox copies of his Matriculation Certificate at the time of appointment, and accordingly the particulars entered in the Statutory Records-Form 'B', CMF, I.D. Card etc. his date of birth was wrongly recorded as 22-09-1987 in stead of his date of birth as 11-11-1987, it is beyond dispute, as acceptable and admissible that 07 other persons have already been regularized in Clerical Gr. III as per the Office Order dtd. 3/6-1-1994 and the workman and Sri Samer Kumar Bauri have been regularized in Clerk Gr. III since 6-01-1994 as confirmed by the Office Letter No. PS/BH (S) 94/13/189 dtd. 4-6-1994. So he claims for regularization in

Clerk Gr. III and Gr. II with due pay scale and differences in wages from 06-01-1994 and 06-01-1997 respectively.

4. Whereas with specific denials but accepting the appointment of workman Ashok Kumar Chatterjee as M/Loader on 27-11-1987 and his deployment as Sand Mushi for 19-09-1989, the Management has pleaded in its written statement that due to differences of date of birth in the Company's Records and on his later on submitted Matriculation Certificate, the Competent Authority accepted his date of birth as 22-09-1957 as contrasted with his date of birth as 11-11-1957 recorded in his Matriculation Certificate.

Admitting the regularization of the workman with 08 others in Clerk Gr. III as per the Office Order No. GM/PER/XI/2294/41-58 dtd. 3/6-1-1994 as also confirmed by the Office Order dtd. 4/7-3-1994 of the Project Office Bhowra (S) Colliery but its approval as prerequisite from Head Quarter was not obtained, though fresh approval communicated as per letter No. BCCL/O & N/99/UG Munshi/3683 dtd. 10/12-1-1999 of the G. M. (MIS), BCCL, Koyla Bhawan as U.G. Munshi in Clerk Gr. III which is also the entry point in the Clerical Grade with certain conditions with posting at E. J. Area in respect of the workman and Sri Samir Kumar Bauri both DCL of Bhowra (S) Colliery. The Management has taken uniform decision for his regularization which he should accept prospectively. So the claim of the workman for his regularization from 06-01-1994 is not justified.

FINDING WITH REASONING

5. In this case, WW1 Ashok Kumar Chatterjee, the workman for himself, and MW1 Ramdhar Tripathy, the Personal Manager for the Management have been examined.

After minutely going through the materials namely the oral and documentary evidences of both the parties, I find the following facts beyond dispute :—

- (i) The workman was initially appointed as M/Loader as per his appointment letter dtd. 20/27-11-1987 (Ext. M.1) which shows his appointment as (Badli Miner/Loader).
- (ii) He was allowed to work as Sand Munshi on temporary basis at 37/38 Incline of Bhowra Colliery as per the office order dtd. 18/19-09-89 (Ext. W. 1 and Ext. M. 2) identical. He was regularised as U.G. Munshi as per the Office Letter dtd. 10/12-11-1999 of the G. M. (MIS) concerned (Ext. M. 3), and
- (iii) The workman alongwith three other employees Samir Kr. Bauri, Jayant Ganguly and D. D. Mandal was regularised as Clerical in Clerk Gr. III w.e.f. 06-01-1994 as per the office order dtd. 4/7-3-94 of the Project Officer concerned (Ext. W. 5). In pursuance of it the workman submitted his joining report as a Clerk on 6-1-1994 by his dateless joining report (Ext. W. 6).

6. But the claim of the workman as deposited by him that he was authorised to work as a Bill Section temporarily as per the office order dtd. 31-3/3-4-1990 (Ext. W. 3) and thereafter he has been working as a Mazgine Clerk (as per P. O.'s letter) dtd. 25-8-2005 (Ext. M. 5), he should not be promoted in Clerical Gr. III—it is quite unjustified, because all the relevant office orders were purely administrative order, which can not be interfered with it nor it can serve the basis for its claim. Likewise, contradictory statement of MW1 Ramdhar Tripathy as submitted before the ALC (C) that the management was ready to regularise the workman as U.G. Munshi in clerk Gr. III but he did not accept, is untenable in view of the aforesaid admitted regularization of the workman as a clerk while the workman was posted as MCL (the office order dtd. 4/7-3-94) (Ext. W. 5), though its approval from the H. Qr. was received in the Month of November, 1999, the H. Qr. appears to be mainly accountable for delayed approval of it.

Considering the aforesaid facts, I find and hold that the demand of the union concerned namely Bihar Mines Lal Jhanda Mazdoor Union from the management of Bhowra (S) Colliery of M/s. BCCL for regularization of Shri Ashok Kumar Chatterjee in Clerk Gr. III w.e.f. 06-01-1994 is quite proper and legally justified. Therefore the workman is entitled to wages of the clerk since then with all financial benefits thereof.

KISHORI RAM, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2448.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण-2, धनबाद के पंचाट (आईडी संख्या 32/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29 06-2012 को प्राप्त हुआ था।

[सं. एल-20012/54/2007-आईआर (सीएम-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2448.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2007) of the Central Govt. Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the Industrial dispute between the management of P.B. Area of M/s. BCCL, and their workmen, received by the Central Government on 29-06-2012.

[No. L-20012/54/2007-IR (CM-I)]

AJEEET KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (No. 2), AT DHANBAD****Present. Shri Kishori Ram, Presiding Officer**

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

Reference No. 32 of 2007**Parties :** Employer in relation to the management of P.B. Area of M/s. BCCL and their workman.**Appearances :**

On behalf of the workman : None

On behalf of the Employer : Mr. B. M. Prasad, Ld. Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 4th June, 2012.

AWARD

The Government of India, Ministry of Labour in exercise of the power conferred on them under Section 10(1(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/54/2007-IR (CM-I) dated 12-7-2007.

SCHEDULE

"Whether the action of the Management of Bhagaband Colliery of M/s. BCCL in deducting the House Rent Allowance, from the pay of Shri Gyan Chand Paswan, Black Smith from October, 2003 is justified and legal ? If not, to what relief is concerned the workman entitled ?".

2. None represented the Union/workman Gyan Chand Paswan nor written statement filed on behalf of the workman. Mr. B. M. Prasad, Ld. Advocate for Management is present.

Perused the case record. It stands clear that the case has all along been pending for filing W. S. since 04-01-2008, for which several notices through Regd. post including latest ones dtd. 01-12-2010, Show Cause dtd. 24-05-2011 and 06-03-2012 issued to the Vice President of the Union concerned on its address noted in the Reference Case, but none of the Regd. Notices returned till now, so it is deemed all the notices served upon the concerned for it; even then no written statement of the workman has been filed either by the Union or by the workman himself. The very conduct of the Union/workman shows that they are not willing to pursue the case. Hence the case is closed. Accordingly it is passed an order of non existent of an Industrial Dispute.

KISHORI RAM, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2449.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा सी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-2, धनबाद के पंचाट (आईडी संख्या 25/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-06-2012 को प्राप्त हुआ था।

[सं. एल-20012/12/2008-आईआर (सीएम-I)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2449.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2008) of the Central Govt. Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the Industrial dispute between the management of Lodna Area of M/s. BCCL, Thiruvanniyur, Taj Mahal Hotel, Apollo Bunder, Mumbai-400 001 and their workmen, received by the Central Government on 29-06-2012.

[No. L-20012/12/2008-IR (CM-I)]

AJEET KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (No. 2), AT DHANBAD****Present. Shri Kishori Ram, Presiding Officer**

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

Reference No. 25 of 2008**Parties :** Employer in relation to the management of Lodna Area-X of M/s. BCCL and their workman.**Appearances :**

On behalf of the workman : Mr. S. C. Gaur, Ld. Advocate

On behalf of the management : Mr. U. N. Lal, Ld. Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 30th May, 2012

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/12/2008-IR (CM-I) dated 19-3-2008.

SCHEDULE

"Whether the action of the Management of Jayampur Colliery of M/s. BCCL in not providing dependent employment to Kumari Chandana Roy, D/o Late Ramu Roy, Winding Engine Operator under the provisions of NCWA is justified and legal? If not, to what relief is the dependent daughter of Late Ramu Roy entitled?"

2. Mr. S.C. Gaur, the Ld. Advocate for the Union/Petitioner concerned is present and files a petition, moving it that since the sponsoring union tries to contact the Lady petitioner, yet there was no trace of her, so it appears that she has changed her permanent address without leaving any details to the sponsoring union, and that she is not interested to pursue the case. Mr. U.N. Lal, the Ld. Advocate for the Management is present.

From the perusal of the case record, it appears that the case has been all along pending for filing written statement on behalf of Lady Petitioner Kumari Chandana Roy, D/o Late Ramu Roy, Winding Engine Operator for which registered notices were issued thrice. In view of the aforesaid petition filed by Mr. S.C. Gaur, the Ld. Advocate for the sponsoring union, the conduct of Lady Petitioner clearly indicates her unwillingness to pursue her case. Under these circumstances the case is closed; and accordingly an order is passed as non-existent of any industrial dispute.

KISHORI RAM, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2450.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, धनबाद के पंचाट (आईडी संख्या 82/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-06-2012 को प्राप्त हुआ था।

[स. एल-20012/70/1997-आईआर (सीएम-I)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2450.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 82/1998) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the Industrial dispute between the management of Sijua Area of M/s. BCCL, and their workman, received by the Central Government on 29-06-2012.

[No. L-20012/70/1997-IR (CM-I)]

AJEET KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD**

Present SHRI KISHORI RAM, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 82 of 1998.

Parties : Employers in relation to the management of Sijua Area of M/s. BCCL and their workman.

Appearances :

On behalf of the workman : Mr. N.G. Arun, Rep of workman/Union

On behalf of the employer : Mr. D.K. Verma, Ld. Advocate

State : Jharkhand : Industry : Coal

Dated, Dhanbad, the 30th May, 2012

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/70/97-IR-Coal-I dated 24-3-1998.

SCHEDULE

"Whether the action of the Management of Loyabad Colliery of BCCL in not providing employment to the widow daughter (Smt. Deo Kumari Chowhain) of Smt. Mathuri Chowhain, Ex-Wagon Loader who superannuated under VRS (F) is justified? If not so, to what relief Smt. Deo Kumari Chowhain, widow daughter of Smt. Mathuri Chowhain, workman is entitled."

2. Mr. N.G. Arun, the Ld. Advocate/Representative of the workman is present, but Mr. D. K. Verma, the Ld. Advocate for Management is absent. Mr. Arun, the Ld. Advocate/Representative of the workman submits that till now there is no response from the side of petitioner widow daughter Deo Kumari Chowhain of Smt. Mathuri Chowhain, Ex-Wagon Loader, though it was tried to contact her so she appears to be not interested in pursuing the case.

Upon the close study of the case records, it appears the case has been pending for evidence of the petitioner/workman since 05-02-2008 for which several times notices through Regd. posts were sent to the Union concerned on its address noted in the Reference. In view of the submission of Mr. Arun, the Union Representative for the petitioner in this case which is related to the claim of her employment, I find from the conduct of the petitioner that she is not at all interested to pursue her case. Under these circumstances of uncertainty, the case is closed and accordingly an order is passed, as non-existent of any industrial dispute.

KISHORI RAM, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012-

का.आ. 2451.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भेलाटंड वाशरी ऑफ टाटा स्टील के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, धनबाद के पंचाट (आईडी संख्या -113/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-6-2012 को प्राप्त हुआ था।

[सं. एल-20012/156/2004-आईआर (सीएम-I)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2451.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 113/2004) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of Bhelatand Washery of Tata Steel and their workmen, received by the Central Government on 29-6-2012.

[No. L-20012/156/2004-IR(CM-I)]

AJEEIT KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Present : SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 113 of 2004

Parties : Employers in relation to the management of Bhelatand Washery of Tata Steel and their workman.

Appearances:

On behalf of the workman : None

On behalf of the employer : Mr. D. K. Verma, Ld. Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 30th May, 2012

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012/156/2004-I.R. (C-I) dated 6-10-2004.

SCHEDULE

“Whether the action of the management of M/s. Tata Steel in declaring Md. Israr, Heavy Tyndal-cum-Jamadar as surplus by letter dated 24-1-2003

and transferring him to permanent pool is legal and justified? If not, to what relief the concerned workman is entitled and from which date?”

2. None is present for the Union or the workman nor any witness for the evidence of workman has been produced. Mr. D.K. Verma, the Ld. Advocate for the management also did not appear.

Upon the perusal of the case records, it stands clear that the case has been pending for the evidence of the workman since 12-4-2006, for which despite more than ample opportunity to the sponsoring Union/workman and issuance of Regd. Notices to the Sponsoring Union on its address noted in the Reference, not a single witness for the evidence of the workman has been produced. Such conduct of the Union/workman clearly indicates their unwillingness to pursue the case for final adjudication.

Considering the aforesaid facts, it seems no longer any industrial dispute; hence the case is closed and accordingly an order is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2452.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, धनबाद के पंचाट (आईडी संख्या 64/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-6-2012 को प्राप्त हुआ था।

[सं. एल-20012/28/2004-आईआर (सी-I)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2452.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 64/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 29-6-2012.

[No. L-20012/28/2004-IR(C-I)]

AJEEIT KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Present : SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 64 of 2004

Parties : Employers in relation to the management of Loyabad Coke Plant of M/s. BCCL and their workman.

Appearances :

On behalf of the workman : Mr. Pintu Mandal, Rep. of the Union/workman

On behalf of the employer : Mr. D. K. Verma, Ld. Advocate

State : Jharkhand : Industry : Coal

Dated, Dhanbad, the 30th May, 2012

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012/28/2004-I.R. (C-I) dated 8-6-2004.

SCHEDULE

“Whether the action of the management of Loyabad Coke Plant of M/s. BCCL in not regularizing Sri Vijay Sutradhar as Blacksmith Cat. V is justified? If not, to what relief is the concerned workman entitled and from what date?”.

2. Mr. Pintu Mandal, the Union Representative is present and submits that despite his best efforts workman Vijay Sutradhar is neither appearing nor presenting any witness in this case, so it may be closed Mr. D.K. Verma, the Ld. Advocate for the management is absent.

Pursued the case record, I find the case which is related to the issue of not regularising the workman as Blacksmith Cat. V has been pending for the evidence of the workman since 24-3-2006, but in spite of giving more than ample opportunity for it not a single witness till now produced on behalf of the workman, though lastly four Registered notices were issued to the Union concerned for it. In this way the conduct of the workman *prima facie* appears to be disinterested in pursuing her case. Under these circumstances, the case is closed and accordingly, order is passed as non-existent of any industrial dispute.

KISHORI RAM, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2453.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल माइन प्लानिंग एंड डिजाइन इन्स्टीट्यूट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (आईडी संख्या-301/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-6-2012 को प्राप्त हुआ था।

[सं. एल-20012/448/2001-आईआर (सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2453.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 301/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of Central Mine Planning & Design Institute and their workmen, received by the Central Government on 29-6-2012.

[No. L-20012/448/2001-I.R.(C-I)]

AJEEET KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD**

Present : SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 301 of 2001

Parties : Employer in relation to the management of C.M.P. D.I. Ranchi and their workman.

Appearances :

On behalf of the workman : Mr. D. Mukherjee, Ld. Adv.;

On behalf of the employer : Mr. S.C. Mallick, Ld. Adv.;

State : Jharkhand : Industry : Coal

Dated, Dhanbad, the 22nd May, 2012

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012/448/2001-I.R. (C-I) dated 29-11-2001.

SCHEDULE

“Whether the dismissal of Md. Islam, Ex. Driver by the management of Central Mine Planning and Design Institute Ltd., Gondwana Palace, Kanke Road, Ranchi is proper and justified? If not, to what relief is the concerned workman entitled.”

2. The case of workman Md. Islam as represented in his written statement is that he had been unblemishingly working as a permanent workman at C.M. P.D.I. Ltd. since long. But the management biasedly and illegally issued him a false and frivolous charge-sheet with suspension order in order to victimise him for his active participation with the workmen for their grievance. Denying the alleged charges, he satisfactorily replied to the charge-sheet. Even then, the Management caused to be held an invalid and irregular departmental enquiry, and he was not given full opportunity either to cross examine the management

witness fully or to adduce his evidence nor the copies of the documents supplied to him even before imposing dismissal punishment upon him. The finding of the Enquiry Officer was quite perverse. Even he was not paid the suspension allowance. The management illegally and arbitrarily dismissed him on the basis of the perverse finding of the Enquiry Officer. After the dismissal of his writ petition by the Hon'ble High Court, Calcutta, the industrial dispute as per direction was raised before ALC (C), Ranchi, but its failure in reconciliation resulted in the reference for adjudication. So the action of the management in dismissing him was unjustified.

3. The workman in his rejoinder categorically denied the allegations of the management, and further pleaded that he was unaware of any alleged preliminary enquiry. He was dismissed by the C.M.D., the Appellate Authority, who also conducted the enquiry, whereas the Chairman-cum-Managing Director was the Disciplinary Authority. The dismissal was harsh and disproportionate to the charge.

4. Whereas the contra pleaded case of the management with specific denials is that Sri Sunil Kumar Karn, Geologist, Drilling Camp, Singrauli, filed a complaint before the RD, RI-VI (though HOD) that on 29-12-2007 while he was sitting in his office, Md. Islam, Driver along with Sri R.N. Singh, Driver, entered the office and asked why he had remarked in the Attendance Register about him. Md. Islam frequently abused and disconnecting the Telephone, asked him (Mr. Karn) who made him the officer, he should have been in Cat. I, and also humiliated assault him. The riotous behaviour of the workman and Sri R.N. Singh was misdisciplined action. After preliminary fact finding enquiry held by Sri A.K. Pandey, SE (C) appointed as the Enquiry Officer into the alleged complaint, Mr. Pandey submitted his report on 3-1-1998, holding both the Drivers negligent in duty and disobedient to the order of Mr. Karn, misbehaviour and manhandling amounting to their misconduct of grave nature compelling for disciplinary action.

5. Then, the workman was charge-sheeted as per the charge-sheet dt. 13-1-1998 issued by the Regional Director for his misconduct of insubordination or disobedience, wilful neglect of work, baseless allegation assault, abuse towards the subordinate or superior on duty, wilful and deliberate action subversive to the discipline/deterrential to the interest of the Company within the owner's premises under clause 26.03, 26.5, 26.16, 26.22 and 26.27 of the C.S.O. The enquiry was held fair with full natural justice, proper, and as the workman with his co-worker participated in it, cross examined the 12 witnesses of the management and examined his six witnesses for his defence, availing full opportunity. The Enquiry Officer submitted his enquiry report on 21-12-1998, finding him guilty of the charge. After receiving the Second Show Cause Notice dt. 27-1-1999 with the copy of the enquiry report, the workman submitted his reply to

it. But the Chairman-cum-Managing Director, the Disciplinary Authority, on consideration of all the relevant documents of the enquiry proceeding, evidence, enquiry report, dismissed the workman from the service of CMPDI w.e.f. 23-6-1999, in lack of proof of his innocence. As such the dismissal of the workman in view of gravity of the charge is legally uninterferable.

FINDING WITH REASONS

6. On due consideration of the materials as produced by the both the parties, by examining their own witnesses, namely MWI Jai Krishna Prasad (J.K.Pd.) the Retd. Gen. Manager, CMPDI (CIL), H. Qr. Ranchi and WW-I Md. Islam, the workman himself at the preliminary issue of fairness of the domestic enquiry, the Tribunal as per order dt. 12-10-2011 held the domestic enquiry quite fair, proper and according to the rules of natural justice. Hence it came up for hearing final arguments on merits.

7. Referring to the authority; FLR 1995 (SC) (DB) 817, Surjit Ghosh Vs. Chairman & Managing Director, UCO Bank related to Right to Appeal and Review under related to Regulation 8(2) (iii) r/w Regulation 3(9) of United Commercial Bank Officers (Discipline & Appeals) Regulation, Mr. D. Mukherjee, Ld. Counsel for the workman in the present case submits, as held therein by the Hon'ble Apex Court, that 'since the Appellate Authority has exercised the power of Disciplinary Authority, the Appellant was deprived of right of appeal and of review, as such order of dismissal has in herent defect, so it was liable to set aside'. It has been contended by Mr. Mukherjee, Ld. Advocate for the workman that in the present case under adjudication, the management conducted the enquiry into the charges and he was illegally dismissed by the Chairman-cum-Managing Director (CMD) as per his order dt. 23-6-1999 (Ext. M. 6) but CMD is the Appellate Authority as per the Certified Standing Order, the statutory Force (Notification dt. 29-08/02-09-2002-Ext. M. 7).

Moreover, the charges levelled in the charge-sheet are alleged not to have been proved against the workman as contended by Mr. Mukherjee, Ld. Advocate for the workman.

8. Whereas in response to it, Mr. S.C. Mallick, the Ld. Advocate for the management has relied upon the ruling : (2009) 10 SCC 32 (DB), Biecco Lawrie Ltd., Vs. State of W.B., and submitted, as held therein by the Hon'ble Apex Court, that 'evident from the charge-sheet that charges were precise and specific in nature alongwith relevant provision of Standing Order laying down consequences thereof; no patent or latent vagueness involved no unintelligible and clear indication that respondent was fully aware of the charges and even their specifications and probable witnesses for his misconduct.' It is contended for the management that in their case, the charges of riotous behaviour abusing, assaulting,

insubordination and indiscipline as levelled against have been established clearly. Further, Mr. Mallick, the Ld. Counsel for the management referring the authority (2009) 7P SCC 552 A (DB), Rajasthan SRTC Vs. Kamrudelion of wherein it has been held, submits that 'in case Respondent employee conduct who was alleged to have misconducted himself on five occasions during his probation period (for non-issuance of tickets), regarding which a letter of warning was also issued to him. His service was terminated after finding him guilty in fairly conducted departmental proceeding. However, in an industrial dispute raised by him, Labour Court despite finding the enquiry fairly held directed his restatement, opining that punishment inflicted was disproportionate to gravity of his offence; and that stoppage of two grade increments with cumulative effect, and on payment of back wages serve ends of justice. Though the Labour Court/Industrial Tribunal to interfere with quantum of punishment cannot be denied, but same be exercised judiciously. Hence, in light of the facts, punishment of dismissal restored.' (Paras 15, 16, 2, 3, 21)

In the present case, there is no proof of as to such previous misconducts of the workmen. The aforesaid second ruling does not hold good with the present case, as the factum of the aforesaid cited latter case in quite different from that of present case.

9. This case involve the question of law whether the dismissal of the workman by the CMD, the CMPDI who is the Appellate Authority as per Notification dt. 2-9-2002 (Ext. M-7) as per his order dt. 23-6-1999 (Ext. M-6) caused prejudice to the workman. Mr. S.C. Mallick the Ld. Advocate for the management has to argue that the Standing order nowhere debars the Appellate Authority from dismissing him on the ground of the proved charges. But its a fallacy to plead so, as it is violative to the mandatory provision as laid down under clause 30 of the Certified Standing order dt. 19-8-1991 of the Central Mine Planning & Design Institute Ltd. (CMPDI), Ranchi, it was the Functional Director of the Division/Dept. concerned as the Disciplinary Authority who was competent to dismiss him. Thus the dismissal of the workman by the said Appellate Authority has caused prejudice to him in the eye of law as he was deprived of his right to appeal as result of the exercise of the power of the Disciplinary Authority by the Appellate Authority in the case. The plea of Mr. D. Mukherjee, the Ld. Advocate for the workman perponderates that of Mr. Mallick, Ld. Counsel for the management.

10. Considering all the aforesaid discussed facts I find and hold that the dismissal of Md. Islam Ex. Driver by the management of CMPDI, Gondwana Palace, Kanke Road, Ranchi is not at all proper and justified, as it has inherent defect; hence it is liable to be set aside. Therefore, the workman is held entitled to his reinstatement in his service with the full back wages.

The management of the C.M.P.D. is directed to implement the award within a month from the receipt of it after its publication in the Gazette of India. Let copy of the award be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and needful.

KISHORI RAM, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2454.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इसी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, धनबाद के पंचाट (आईडी संख्या-52/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-6-2012 को प्राप्त हुआ था।

[सं. एल-20012/157/1989-आईआर (सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 52/1991) of the Central Government Industrial Tribunal-cum-Labour Court No.-1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ECL and their workmen, which was received by the Central Government on 29-6-2012.

[No. L-20012/157/1989-IR(C-I)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

In the matter of a reference U/S. 10(1)(d) (2A) of the Industrial Disputes Act, 1947.

Reference No. 52 of 1991

Parties : Employers in relation to the management of Shyampur 'A' Colliery of M/s. E.C. Ltd.

AND

Their Workmen

Present : Shri H.M. Singh, Presiding Officer

Appearances:

For the Employers : Shri R.N. Prasad, Advocate

For the Workman : None

State : Jharkhand : Industry : Coal

Dated, the 28th May, 2012

AWARD

By Order No. L- 20012(157)/89-IR (Coal-I) dated 30-4-1991 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of

sub-sec. (1) and sub-sec. (2A), referred the following dispute for adjudication to this Tribunal :

"Whether Shri Harilal Hansda and 12 others indicated in Annexure and working through Contractor at Shyampur 'A' Colliery of M/s. Eastern Coalfields Ltd. are to be treated as workmen of the said management and whether the demand that these persons be regularised in the services of the said management is justified? If so, to what relief the workman concerned are entitled?"

2. The case of the concerned workmen is that they had been working as underground store cutters at Shyampur 'A' Colliery in permanent and prohibited category of job under the direct supervision of the management. They had put in 190/240 days attendance in each calendar year. Their attendance was recorded in form 'C' Register and they were issued Cap Lamp by the management. The concerned represented before the management for their regularisation and payment as per NCWAs but without any effect. Thereafter an industrial dispute was raised before A.L.C. (C), but ended in failure. It has been submitted that the demand of the workmen for treating them as workmen of the management are legal and justified.

Under such circumstances, it has been prayed that the Hon'ble Tribunal be pleased to pass an award in favour of the workman by directing the management to treat them as their workmen and also to regularise them in service of the management after reinstating them.

3. The case of the management is that the management had awarded a contract for driving of a new inclines in Bhaljuri Seek of Selected Fatka Unit of Shyampur colliery. It is not a prohibited category of job. It is well settled that the ex-workmen or ex-contractor have no right to claim employment. It has been submitted that, the 13 persons referred to in the reference were employed through contractor for a short period of about 3 months and they cannot claim to be treated as workmen of the management under any law or otherwise and that their demand for regularisation in service is not justified. In this view of the matter, the demand of the persons concerned is not justified and they are not entitled to any relief.

In view of such circumstances, it has been prayed that the Hon'ble Tribunal be pleased to pass an award holding that the concerned workmen are not entitled to any relief as claimed by them.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The demand has been made for regularisation of the concerned workmen who are contractor's workmen and working through contractor with M/s. E.C. Ltd., at Shyampur 'A' Colliery. They have demanded for their

regularisation, but no evidence has been produced on behalf of the workman.

6. Considering the above facts, they are not entitled for their regularisation and the demand is not justified.

7. In the result I hold that the demand of Harilal Hansda and 12 others, the names mentioned in the Annexure of the order of reference, for their regularisation in the service of the management is not justified. Hence, the concerned workmen are not entitled to any relief.

This is my Award.

H.M. SINGH, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2455.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, धनबाद के पंचाट (आईडी संख्या-21/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/6/2012 को प्राप्त हुआ था।

[सं. एल-20012/293/1990 आईआर (सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2455.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 21/1991) of the Central Government Industrial Tribunal-cum-Labour Court No.-I, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 29-6-2012.

[No. L-20012/293/1990-IR(C-I)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/s. 10(1)(d) (2A) of the Industrial Disputes Act, 1947.

Reference No. 21 of 1991

Parties : Employers in relation to the management of Damodar Opencast Project of M/s. BCCL.

AND

Their Workmen

Present : Shri H.M. Singh, Presiding Officer

Appearances:

For the Employers : None

For the Workman : None

State : Jharkhand Industry : Coal

Dated, the 30th May, 2012

AWARD

By Order No. L- 20012/293/90-IR(Coal-I) dated 19-3-1991 the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Damodar Opencast Project under Sudamdh Area of M/s. BCCL, P.O. Sudamdh, Dist. Dhanbad in dismissing Shri Bindeswar Rai, Excavation Helper (Trainee) w.e.f. 14-9-1989 is justified? If not, to what relief the workman is entitled?"

2. The case of the concerned workman, in short is that he was given employment initially as a Badli Miner/Loader in 1982 by virtue of his entitlement to get the said employment for his putting in even more than 75 days attendance in the calendar year 1973. He was issued chargesheet dated 25/27-11-1985 alleging that he has not put in any attendance during the year 1973 whereas he was required to put in 75 days attendance in a calendar year as per policy decision of the management to qualify for enrollment as a Badli Miner/Loader and thus he got employment in Bhulan Bararee Colliery of M/s. BCCL by adopting fraudulent and dishonest means under clause 27(2) of the Standing Orders applicable to Bhowra North Colliery. The concerned workman replied to the chargesheet denying the charges emphatically. The domestic enquiry was concerned after more than 3 years in January 1989. In the enquiry the concerned was not given full opportunity. Thereafter he was dismissed/terminated w.e.f. 14-5-89. The dismissal of the concerned workman was not justified.

Accordingly, it has been prayed that the Hon'ble Tribunal be pleased to answer the in favour of the workman by directing the management to reinstate the concerned workman with full back wages.

3. The case of the management is that the concerned workman was provided employment in BCCL under the scheme of the management whereby employment was provided to delisted casual workers who had put in 75 days of attendance in any of the years during the years 1973, 1974 and 1975. The concerned workman second employment under this scheme in Bhulanbarari colliery of BCCL. He was later transferred to Bhowra South Colliery of BCCL and when he was working at Bhowra South Colliery it was detected that he was not a genuine person but was an impersonator. Accordingly, he was issued with a chargesheet dated 27-11-1985 by the then Dy. Chief Mining Engineer/Agent, Bhowra North. The concerned workman submitted his reply to the charge-sheet which was not found satisfactory. Thereafter the Enquiry Officer

was appointed who conducted the enquiry against the concerned workman. After giving due notice to the concerned the Enquiry Officer held exparte enquiry. After considering the report of the Enquiry Officer the concerned workman was dismissed from service w.e.f. 14-9-89.

Under the facts stated above, it has been prayed that the action of the management is justified and the concerned workman is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. None of the parties on behalf of either side though in this case the enquiry was held to be fair and proper by order dated 16-2-2012.

6. No evidence was produced that the enquiry was not fair and proper when the action of the management cannot be said to be unjustified. Moreover, the management's evidence on preliminary point, who was supported the case of the management, has given evidence that out of 14, 12 persons had attended the enquiry. The concerned workman did not turn up. So, there is no ground to hold that the action of the management in dismissing the concerned workman is not justified.

7. In the result, I hold that the action of the management of Damodar Opencast Project under Sudamdh Area of M/s. BCCL in dismissing Shri Bindeswar Rai, Excavation Helper (Trainee) w.e.f. 14-9-1989 is justified. Hence, the concerned workman is not entitled to any relief.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2456.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण नं. 1, धनबाद के पंचाट (आईडी संख्या-46/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-6-2012 को प्राप्त हुआ था।

[स. एल-20012/433/1993-आईआर (सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2456.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/1996) of the Central Government Industrial Tribunal-cum-Labour Court No.-1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of M/s. BCCL and their workman, which was received by the Central Government on 29-6-2012.

[No. L-20012/433/1993-IR(C-I)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/s. 10(1)(d) (2A) of the Industrial Disputes Act, 1947.

Reference No. 40 of 1996

Parties : Employers in relation to the management of Bhalgora Area of M/s. BCCL.

AND

Their Workmen

Present : Shri H.M. Singh, Presiding Officer

Appearances:

For the Employers of Bhaglora & Kustere Area : Shri B.N. Prasad, Advocate

For Kusunda Area : None

For M/s. B.C.C.L. H.Q. : None

For the Workman : Shri D. Mukherjee, Advocate

State : Jharkhand : Industry : Coal

Dated, the 31-5-2012

AWARD

By Order No. L. 20012(433)/93-IR (C-I) dated 25/31-8-1996 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-Sec. (1) and sub-sec. (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the claim of the union that Sh. Gorelal Paswan and 32 others (as per list enclosed) were working at Burragarh siding as shale-pickor since 1988 under Chhotanagpur Motor Paribahan Sahayog Samity Ltd. (Kusuda) is correct? If so, whether the demand of the union for their regularisation by the management of Bhalgora Area of M/s. BCCL is justified? If so, to what relief are these concerned workman entitled?”

2. The case of the concerned workman is that they have been working at Borragarh siding of BCCL as Shale Picker and Pusker since 1988. They were engaged by the management of BCCL for improving their quality of coal

and regular despatch of coal. The management of BCCL used to provide the implements and other materials for doing the said job to them. The job of the concerned workman is permanent in nature. They have been working under the direct control and supervision of the Manager, Asstt. Manager and Loading Inspector and other supervisory staff. The attendance of the concerned workman are being marked by the management in Form ‘C’ register which is a statutory register. At the instance of the management Cooperative Societies have been formed to show the employment of some workman including these concerned workman only to deprive them the legitimate benefits. They have been shown as being employed by Chhotanagpur Motor Paribahan Sahayog Samity Ltd. However, this arrangement of employment of the concerned workman through Sahayog Samity is a camouflage. They were working in the railway siding and have completed more than 240 days continuous and regular service each year since they have been working in Borragarh colliery siding. M/s. BCCL already in many cases have departmentalised and regularised the services of the workman doing similar nature of job. The services of these workman have been regularised either through settlement or through Award or even directly by the management. The concerned workman requested the management to regularise their services on the roll of Borragarh colliery, but without any effect. Thereafter the concerned workman raised the present industrial dispute which resulted reference to this Hon'ble Tribunal.

It has been prayed that the Hon'ble Tribunal be pleased to pass an award in favour of the concerned workman.

3. The case of the management is that the management of Bhalgora Area or Burragarh colliery never awarded any contract to Chhotanagpur Motor Paribahan Sahayog Samity Ltd. Kusunda at any time on the job of shale picking or any other job. The sponsoring union has not been recognised by the management and the Union has no right to raise any industrial dispute in respect of strengtheners claiming them to be the workman of the aforesaid Samity. It has been submitted that whenever any society is awarded a contract, work order is issued in its favour and the society executes the works according to terms of work order and submits the bills which is paid through cheques to society. If the concerned society worked at the Burragarh colliery or Bhalgora Project area it should produce the work orders allotted to it and should produce the Bank Pass Book indicating receipt of cheques from the management of Burragarh colliery or Bhalgora Project area. In the absence of any authenticated documents, the claim of the concerned persons demanding their regularisation has no basis at all and the same is liable to be summarily rejected. The concerned persons are not entitled to any relief.

Under the facts and circumstances stated above the Hon'ble Tribunal be pleased to pass the award holding that the concerned workman are not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned workman produced WW-1, Gorelal Paswan and proved documents as Ext. W-1 to W-4.

The management produced MW-1, R.K. Sinha and MW-2, P.K. Sinha.

6. Main argument advanced on behalf of the concerned workman is that they are working as shale picking continuously since 1988, but the management is not regularising them. They are working under the direct control and supervision of the management. The job of shale picking is permanent nature of job. As per NCWA the shale pickers are getting wages of Category-I. But they are getting their wages such below the rate of NCWA. The employment of the concerned workman through Chhotanagpur Motor Paribahan Sahayog Samity Ltd. is a camouflage.

The management argued that the concerned workman were never engaged for transporting coal to the railway siding by the management nor the concerned workman are doing the job of shale picking.

Another argument advanced on behalf of the concerned workman is that the management's witness MW-1 stated in examination-in-chief that the concerned workman were not engaged for doing the job. He also stated that Chhotanagpur Motor Paribahan Sahayog Samity was not engaged as Contractor. In his cross-examination he admitted that there is a railway siding at Burragarh colliery and coal raised from other collieries also transported to railway siding for loading in wagon.

In this respect on behalf of the concerned workman 2007 (115) FLR 427.

Also referred an Award passed by this Tribunal in Reference No. 156/94 & 72/95 and also order passed by Hon'ble High Court and Hon'ble Supreme Court in the above reference.

It has been argued that in similar nature of case the concerned workman have been regularised. In that case there settlement between the management and the union. In the present case there is no such settlement.

Another law referred on behalf of the workman is 2008 AIR SCW 3996 in which the Hon'ble Supreme Court laid down:

Industrial Disputes Act (14 of 1947). Sub 2, Item 5- Regularisation of service - Contractual workers- Regularisation of service - Contractual workers -

Disentitlement from claiming regularisation - Not inflexible rule - Workers appointment by ONGC initially through contractor -Claim for regularisation Reference in Tribunal - Finding of fact by Tribunal that workman were employees of ONGC and not contract employees - Being employees of ONGC workman would be entitled to all benefits available in that capacity, and issue of regularisation would pale into insignificance.

Industrial Disputes Act (14 of 1947), S.10 - Reference Scope - Pleadings of parties and evidence produced - Relevant for determining real scope of dispute - Wording of reference showing that dispute was as to regularisation of service of contractual workers -Pleadings however showing that case issue before Tribunal was with regard to status of workers as employees of principal employer - Award of Tribunal holding workers to be employees of principal employer and granting relief of regularisation - Not outside to jurisdiction.

7. The management argued that the concerned workman argued that the concerned workman have filed manufactured documents for getting employment.

In this respect the evidence of the concerned workman, WW-1, is very much material. He stated in cross-examination that the company has not given us either any appointment letter, Identity Card or pay slip for working at Burragarh railway siding. Without a work order no contractor can work, therefore I presume that the contractor must have get work order. The contractor i.e. the Cooperative Society told us that they have received work order for this job. Nepal Rewani was also Secretary at that time and after his death Bajrang Rewani was the Secretary of that Society. Since work order is not issued to workers, I cannot file the same. We are not the members of Cooperative Society and we have not received any receipt of membership. The Secretary of the Society has given us appointment letter which are with us. I have not filed any such appointment letter. I do not know if payment to the Cooperative Society is made by cheque through Bank. I cannot say in which Bank the said Society has got its account and from which Bank payments were made. We have not received any letter from BCCL in support of our working at Burragarh colliery. In 107 proceeding 1st party was one of the members of Cooperative Society and we were the 2nd party. I know simply to write my name. We were appointed as Shale Picker by the Cooperative Society and the Society had engaged us at Burragarh siding. We were engaged by the Secretary of the Cooperative Society.

This statement of the concerned workman shows that they have worked on behalf of Cooperative Society which was engaged by the management. They worked under the Society on which basis the concerned workman have worked with the management. It has been clearly stated by the concerned workman that he cannot file

any work order, Identity Card, Pay slip to work at Burragarh.

8. Considering the above facts and circumstances, I hold that the claim of the union that S/S Gorelal Paswan and 32 others (names mentioned in the schedule of reference) were working at Burragarh siding as shale picker since 1988 under Chhotanagpur Motor Paribahan Sahyog Samity Ltd. (Kusunda) is not correct. So, the demand of the union for their regularisation by the management of Bhalgora Area of M/s. BCCL is not justified. Hence, the concerned workman are not entitled to any relief.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2457.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इसी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, धनबाद के पंचाट (आईडी संख्या-112/1992) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-6-2012 को प्राप्त हुआ था।

[सं. एल-20012/282/1992-आईआर (सी-I)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2457.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 112/1992) of the Central Government Industrial Tribunal-cum-Labour Court No.-1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ECL and their workman, which was received by the Central Government on 29-6-2012.

[No. L-20012/282/1992-IR(C-I)]

AJEEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/s. 10(1)(d) (2A) of the Industrial Disputes Act, 1947.

Reference No. 112 of 1992

Parties: Employers in relation to the management of Kapasara Area M/s. B.C.C. Ltd.

AND

Their Workmen

Present : Shri H.M. Singh, Presiding Officer

Appearances:

For the Employers : None

For the Workman : None

State : Jharkhand : Industry : Coal

Dated, the 1st June, 2012

AWARD

By Order No. L- 20012(282)/92-IR(Coal-I) dated 29-9-92 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-sec. (2A) of Sec. 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of M/s. Eastern Coalfields Ltd. Kapasara Area in relationship to their NOCP (Raja Colliery) in not regularising S/Shri Shionath Mahato and 14 others as Water Carriers is justified? If not, to what relief the workman concerned are entitled?” A list of workers is enclosed.

2. The case of the concerned workman is that they have been working as Water Carrier at Kapasara Area since long and all of them have put in 240 days attendance in each calendar year. They have demanded for their regularisation as Category-I Mazdoor and wages as per wage Board Recommendation and NCWA.

Accordingly, they have prayed before this Tribunal to please pass an award in favour of the concerned workman by directing the management to regularise the concerned workman with arrears of wages.

3. The management in their written statement-cum-rejoinder submitted that the concerned persons are water supplier. They were never appointed by the management and they are not workers of management. So, the persons concerned have no right to claim employment under this management and the management is not required to take any action in regularising them in its service.

In this view of the matter the management is perfectly justified in not accepting the claim of the persons concerned and in consequence they are not entitled to any relief.

It has been prayed that the Hon'ble Tribunal be pleased to hold that the concerned persons are not entitled to any relief.

4. Neither the concerned workman nor the management adduced any oral or documentary evidence.

No argument has been adduced from either side.

5. From the written statement of both sides, it appears that the concerned persons are water supplier and they were not appointed by the management, so they cannot claim regularisation in the services of the management.

6. Accordingly, it is held that the concerned persons are not entitled to any relief.

This is my Award.

H.M. SINGH, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2458.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. सी. एल के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, धनबाद के पंचाट (आईडी संख्या-172/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-6-2012 को प्राप्त हुआ था।

[सं. एल-20012/113/1997-आईआर (सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2458.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 172/2000) of the Central Government Industrial Tribunal-cum-Labour Court No.-1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CCL and their workman, which was received by the Central Government on 29-6-2012.

[No. L-20012/113/1997-IR(C-I)]

AJEEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I DHANBAD

In the matter of a reference U/s. 10(1)(d) (2A) of I.D. Act,
Reference No. 172 of 2000

Parties : Employers in relation to the management of CCL

AND

Their Workmen

Present : Shri H.M. Singh, Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the Workman : Shri B.B. Pandey, Advocate

State : Jharkhand : Industry : Coal

Dated, the 31st May, 2012

AWARD

By Order No. L- 20012/113/97-IR (C-I) dated 30-5-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub- sec. (1) and sub-sec. (2A) of Section 10 of the I.D. Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Kedla Underground Project of Central Coalfield Limited P.O. Ledla, Dist. Hazaribagh, in denial of the payment of wages to the workman concerned (list enclosed) as per the fitment chart prepared on 22-5-93 and subsequent order for deduction of paid wages is justified? If not, to what relief are the workman entitled?”

2. On 18-4-2012 Shri B.B. Pandey, Advocate, appearing on behalf of the concerned workman/union, by filing a petition submitted that the concerned workman, listed in the order of reference, submitted that the concerned workman/union are not interested to contest the case further.

In view of such submission made on behalf of the workman/union, I render a ‘No Dispute’ Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2459.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी सी सी एल के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 1-धनबाद के पंचाट (संदर्भ संख्या 75/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-06-2012 को प्राप्त हुआ था।

[सं. एल-20012/249/1995-आईआर(सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2459.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 75/1996) of the Central Government Industrial Tribunal/ Labour Court, No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 29-6-2012.

[No. L-20012/249/1995-IR (C-I)]

AJEEET KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD**

In the matter of a reference U/s 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 75 of 1996**Parties:**

Employers in relation to the management of Mohuda Area of M/s. B.C.C.L.

AND

Their workman

Present : SHRI H.M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : Shri S. N. Sinha, Advocate

For the Workman : Shri S. C. Gaur,
Vice-President, N.C.W.C.

State : Jharkhand

Industry : Coal

Dated, the 31st May, 2012

AWARD

By Order No. L-20012/249/1995-IR (C-I) dated 26-9-1996, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

“Whether the action of the General Manager, Mohuda Area No. II of M/s. of BCCL, P.O. Mohuda, Distt. Dhanbad in denying employment to the dependent of Sh. A. C. Banerjee, Compounder under para 9.4.3 of NCWA-IV is justified? If not, to what relief is the concerned workman entitled?”

2. This case was fixed on 27-4-2012 for hearing. But Shri S. C. Gaur, Vice-President, N.C.W.A. by filing a petition stated that no one is interested to contest the case on behalf of the concerned.

In view of such submission made by the Vice-President of N.C.W.A.. I render a ‘No Dispute’ Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2460.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुवंश में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 1, धनबाद के पंचाट

(आई डी संख्या 66/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-06-2012 को प्राप्त हुआ था।

[सं. एल-20012/10/1985 आईआर(सी 1)]

अजीत कुमार, अनुपाय अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2460.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 66/1991) of the Central Government Industrial Tribunal/Labour Court No.1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCI, and their workman, which was received by the Central Government on 29-6-2012.

[No. I-20012/10/1985-IR (C-I)]

AJEEET KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD**

In the matter of a reference U/s 10 (1) (d) (2A) of the Industrial Disputes Act, 1947

Reference No. 66 of 1991**Parties:**

Employers in relation to the management of Barora Colliery of M/s. B.C.C. Ltd.

AND

Their workman

Present: SHRI H.M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : None

For the Workman : Shri D. Mukherjee, Secretary,
Bihar Colliery Kamgar Union

State: Jharkhand

Industry : Coal

Dated, the 13-6-2012

AWARD

By Order No. L-20012/10/85/DII (A)-IR (C-I) dated 24-7-1991 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

“Whether the claim of the Bihar Colliery Kamgar Union, that Shri Dulal Kumhar, Trammer was wrongly superannuated with effect from 2-6-84 by the management of the Barora Colliery of M/s. BCCI, was justified? If so, to what relief is the concerned workman entitled?”

2. The case of the concerned workman is that he had been working as permanent Trammer since long and at the

time of his appointment the date of the concerned workman was recorded as 1935 which is evident from Form 'A' of C.M.P.F. and the date of year of the concerned workman was recorded as 1935. In spite of that the management illegally and in violation of the principles of natural justice changed his date of birth as 1924. The concerned workman was suffering from T.B. and the management to got rid of the concerned workman illegally and arbitrarily superannuated him w.e.f. 2-5-84. The concerned workman vehemently protested against the illegal and arbitrary superannuation, but the management did not pay any heed to the repeated demand and prayer of the concerned workman. Thereafter the union raised industrial dispute before the Asstt. Labour Commissioner (C), Dhanbad for conciliation. Ultimately the conciliation proceeding ended in failure. Hence, the Government of India, Ministry of Labour referred the dispute for adjudication to this Tribunal. The action of the management in superannuating the concerned workman w.e.f. 2-6-84 was illegal, arbitrary, unjustified and against the principles of natural justice.

Under the facts stated above, it has been prayed that the Hon'ble Tribunal be pleased to pass an award by directing the management to reinstate the concerned workman with full back wages.

3. The case of the management is that a workman employed in the coal industry is required to be superannuated on attaining the age of 60 years. He cannot claim to continue in the employment after completion of 60 years of age. The concerned workman could not declare his date of birth at the time of writing Form 'B' Register maintained under Sec. 48 of the Mines Act, 1952. He also could not declare his date of birth in any other documents maintained in the colliery as such, the column against his name in Form 'B' register remained blank for a pretty long time. Therefore, the management referred the concerned workman to Medical Board at Layabed Hospital for his medical examination. He appeared before the Medical Board on 2-6-78 and his age was assessed as 54 years on that date. The date of birth of the concerned workman was recorded as 2-6-1924 and he was retired w.e.f. 2-6-1984 after completion of 60 years of age. As per JBCCI circular the age assessed by medical board becomes binding for the purpose of superannuation. It has been submitted that in the Coal Mines Provident Fund Office there were large scale manipulations of Form 'A' Returns by the workman with the aid and assistance of same trade union leaders and the staff of Coal Mines Provident Fund Office. Thus the concerned workman possibly got his Form 'A' return manipulated by putting some date of birth to suit his purpose and is claiming for continuation in employment beyond 60 years of age on the basis of that fabricated document.

Under the facts and circumstances, it has been prayed that the Hon'ble Tribunal be pleased to pass the

award holding that the concerned workman is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The management produced MW-I, Anjan Kumar Sinha, who proved document marked 'x' for identification.

The concerned workman produced himself as WW-1 (Dulal Kumhar).

6. On behalf of the concerned workman it has been stated that the management superannuated the concerned workman wrongly w.e.f. 2-6-84.

The management representative argued that he was medically examined on 2-6-78 and his age was assessed as 54 years on that date. When he entered in service his date of birth was recorded as 1935 in Coal Mines Provident Fund. The concerned workman could not declare his date of birth at the time of writing Form 'B' Register maintained under Sec. 48 of the Mines Act, 1952, which is statutory register.

On behalf of the concerned workman that the management wrongly recorded the date of birth of the concerned workman as 24-6-24, but his date of birth recorded in C.M.P.F. record as 1935. So, the management wrongly superannuated him.

Form 'B' Register is a statutory register maintained under Sec. 48 of the Mines Act and as per Medical Board report his age has been assessed as 54 years as on 2-6-78.

In the respect WW-1, Dulal Kumhar, admitted that I was examined by the Medical Board on 2-6-78 in which my age was fixed to be 54 years. I had not protested in writing against the assessment of Medical Board. It shows that the concerned admitted that his date of birth recorded as 54 years as on 2-6-78 which later on entered in Form 'B' Register which is maintained under Sec. 48 of the Mines Act, 1952.

7. Considering the above facts and circumstances, I hold that the claim of the Bihar Colliery Kamgar Union, that Shri Dulal Kumhar, Trammer was wrongly superannuated with effect from 2-6-84 by the management of the Barora Colliery of M/s. BCCL was not justified. Hence, the concerned workman is not entitled to any relief.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2461.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 116/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-7-2012 को प्राप्त हुआ था।

[सं. एल-12012/256/2005-आई.आर.(बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2461.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 116/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workman, which was received by the Central Government on 2-7-2012.

[No. L-12012/256/2005-IR(B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Binay Kumar Sinha,
Presiding Officer,
CGIT-cum-Labour Court,
Ahmedabad, Dated 30-05-2012

Reference: CGITA of 116/2006

Assistant General Manager,
State Bank of India,
Zonal Office, Sector-10-B,
Gandhinagar.First Party

And their workman
Shri Chandrakant Baldevdas Nayak,
720/3, CHII-I,
Type Church Road, Sector 8,
Gandhinagar-382008Second Party

For the first party : Bhargav N. Joshi, Advocate

For the second party : K.V. Vyas, Advocate

AWARD

The Central Government/Ministry of Labour by its order No. I-12012/256/2005-IR-(B-1) New Delhi dated 17-03-2006, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947, considering the Industrial Dispute existing between the employer in relation to the management of State Bank of India, Zonal Office and their

workman, referred the dispute for adjudication to the CGIT by formulating the terms of reference as follows:

SCHEDULE

“Whether the action of the management of State Bank of India in imposing the penalty of dismissal from the services of Sh. C.B. Nayak w.e.f. 25-09-2004 is legal and justified? If not, to what relief he is entitled to?”

(2) It may be noted here that the reference order was sent for adjudication to the CGIT-cum-Labour Court, Bangalore but the Secretary to the CGIT-cum-Labour Court, Bangalore vide letter No. CGIT-LC/BNG/TRANSFER/2006-2007/94 dated 28-04-2006 forwarded the aforesaid reference order dated 17-03-2006 along with the corrigendum of the Ministry dated 07-04-2006. The copy of the corrigendum of the Ministry of Labour, New Delhi dated 07-04-2006 has also been attached which go to show that due to typographical mistake the Central Government Industrial Tribunal has been mentioned as “Bangalore” in place of “Ahmedabad” and so the serial No. 1 of the order may be read as, The Presiding Officer, Central Government Industrial Tribunal, 0-14, New Mental Compound Meghaninagar Road, Asarwa, Ahmedabad-380016 (Gujarat). Thereafter the case was registered as reference case at this CGIT, Ahmedabad and the parties were noticed to appear and to file respective pleadings-statement of claim by the workman and the written statement by the management of SBI. The workman second party appeared and filed statement of claim at Ext. 3 on 22-11-2006 and its copy was received by the first party Bank on 30-7-2007. However the first party Bank submitted its written statement at the fag end when the oral and documentary evidence of the second party had already been recorded. The first party submitted its written statement on 16-09-2010 at Ext. 40 and its copy was received by the lawyer of the second party on the same day.

(3) The case of the second party as per statement of claim is that the workman was working with the first party institution as clerk and later on re-designated as Senior Assistant since 1978 his service career was blemish and no memo otherwise received by second party. In the year 1999 a chargesheet alleging misappropriation of Rs. 8000 was issued to him and he (workman) was put under suspension and departmental inquiry was initiated against him which was attended by him. Enquiry officer after conducting domestic enquiry through the records and evidence came to the conclusion that the charges levelled against workman are not proved. Further case is that the first party, for the alleged misconduct of the workman had filed one criminal complaint against him bearing criminal case no. 901/00 in the Criminal Court. The Learned Judicial Magistrate, Idar on conclusion of the criminal trial acquitted the second party of the criminal charges due to non-prove of the charges levelled against him. On these scores it has

been pleaded by the second party that acquittal in criminal trial indicates that the departmental proceedings initiated against him by the management of Bank is without any material evidence it has also been submitted that the state Bank had not preferred any appeal against the judgment of acquittal. Further case is that in spite of such position the Management/Disciplinary Authority disagreeing with the findings of the enquiry officer holding charge not proved against the delinquent workman and the Disciplinary Authority issued second show cause notice to the second party. The second party replied to the second show cause notice. The Disciplinary Authority even then failed to consider the facts in proper spirit and overlooked to the second party's explanation and issued the order of termination of the services of the second party w.e.f. 25-09-2004. Further case is that the second party was unable to get alternate job and since then is unemployed. The contention of the second party is that the action of the management is that of high handedness and contrary to the provision of law and principle of natural justice and so such action on part of the management is fit to be quashed and set aside. The workman filed complaint before the ALC (Central) against such action on part of the management of Bank but the conciliation effort failed and as per failure report sent by the conciliation officer the reference order was sent for adjudication by the Appropriate Government. Further case is that the Management/Disciplinary Authority has gone beyond scope of the enquiry and shown over wisdom in issuing show cause notice without having any piece of evidence to the charges levelled against the second party workman rather the Disciplinary Authority only on presumption has passed the order of termination without observing the principle of natural justice. Further case is that the Management/Disciplinary Authority might have taken other view instead of terminating the second party. On these scores prayer has been made to set aside the order of termination dated 25-09-2004 passed by the Disciplinary Authority and to reinstate the second party workman with full back wages and other consequential benefits with awarding of cost against the first party and to grant any other relief to which the second party is found entitled.

(4) The stand taken by the first party by filing written statement at Ext. 40 in the end of hearing of this case, is that the reference is not maintainable since the same is not based on Industrial Dispute. The first party have denied the allegation made in the statement of claim from paras 1 to 5 and has pleaded that it is upon the second party to put the strict prove of the allegation made against the first party. The case of the first party is that the enquiry officer has submitted enquiry report after conclusion of the inquiry proceedings and the enquiry officer has given findings that the charges are not proved and the enquiry proceedings with enquiry report and findings were submitted before the Disciplinary Authority for further

action. The Disciplinary Authority after going through the entire proceeding has found that findings given by the enquiry officer was not in consonance with the enquiry proceedings and it was also found that while giving findings the enquiry officer has not understood nor considered the evidence lead before him and therefore after considering on relevant facts and the post on which the second party was working, the Disciplinary Authority has come to the conclusion that the charges were proved. Then on basis of the said findings, the first party bank has given the second party opportunity vide letter dated 15-05-2005. The second party has given his reply on 16-06-2004 and after going through representation of the second party his services were terminated vide letter dated 25-09-2001. The second party filed appeal before the Appellate Authority but the Appellate Authority rejected the appeal of the second party and concurred with the punishment of termination given to the second party by the Disciplinary Authority. Further case is that the first party has held just and proper enquiry proceedings and the same was followed by the action by the Disciplinary Authority. And alternatively it has also been pleaded that if this tribunal finds unfairness in the procedure of action taken by the Management/Disciplinary Authority, the first party may be given opportunity to make necessary representation by leading oral as well as documentary evidence to prove the charges levelled against the second party. On these scores prayer has been made to dismiss the reference and to hold that the order of termination of the second party is just and proper.

(5) It may be noted that the second party workman has not challenged the propriety/validity of the domestic enquiry held against him with submission of the enquiry report by enquiry officer and has relied upon the report and findings of the enquiry officer holding him that the charge against the second party is not proved. On the contrary the second party has challenged the action of the Disciplinary Authority that having no any cogent ground to disagree with the findings of the enquiry officer and also without keeping in view that in criminal trial the second party workman have been acquitted, even then the order of punishment was passed without issuing proper show cause notice. The Disciplinary Authority has disagreed with the findings of the enquiry officer and came to the conclusion that the charges levelled against the second party workman is proved. It may be mentioned here that the second party workman has admitted validity of the domestic enquiry held against him including the findings of the Enquiry Officer. But in turn the management of first party did not adduce any further oral and documentary evidence in this case to justify its action so taken by the Disciplinary Authority against the second party workman disagreeing with the findings of the enquiry officer.

(6) In such view of the matter the following issues are taken up for determination in this case.

ISSUES

- (i) Whether the reference case is maintainable ?
- (ii) Has the workman (second party) valid cause of action in this case ?
- (iii) Whether the action of the Management/Disciplinary Authority of SBI disagreeing with the enquiry report and findings of the enquiry officer and imposing the penalty of termination from the service of workman Shri Chandrakant Baldevdas Nayak w.e.f. 25-09-2004 is legal and just or not ?
- (iv) Whether the workman (second party) is entitled to the relief as claimed ?
- (v) What orders are to be passed ?

FINDINGS**(7) Issues No. III**

It may be noted here, before going through the evidence and materials on the record including the copy of the entire enquiry proceedings files produced by the second party workman which has been given pakka exhibits from Ext. 24 to 39 that the second party workman preferred Special Civil Application No. 12168 of 2007 against the management of SBI before the High Court of Gujarat and in this SCA the Hon'ble Court by oral order dated 07-05-2007 at para 5 in the order has been pleased to give direction to the respondents State Bank of India to consider the case of the petitioner during the interim period on the ground that petitioner is already acquitted by the competent criminal court giving direction to the respondent bank to pass appropriate reasoned order and with this observation and direction the SCA preferred by the second party workman was disposed of without expressing any opinion on merits.

(8) Ext. 24 is the suspension order of the second party workman dated 27 October, 1999 issued by AGM/Disciplinary Authority. Ext. 25 is the letter of the bank dated November 19, 1999 addressing to the second party workman on the subject fraud in Saving Bank Account and Misappropriation of funds mentioning the details of the S.B. A/C number, the date of withdrawals and the amounts with further mentioning that the withdrawals have been denied by the A/C holders concerned. In the last para it has been incorporated that you (workman) were unauthorisely keeping custody of the triplicate key of the lock of the record room since 15-03-1999 and there is every reason to suspect your involvement in tempering with destroying the relative SB withdrawals/vouchers, teller register, ledger sheet, SB day book etc. The circumstantial evidence show that the frauds have been committed by you and thereafter asking explanation and also directing to arrange for return immediately the amount of Rs. 53,000 representing the various fraudulent withdrawals in the SB A/C as stated above. Ext. 26 is the reply of the second

party workman dated 29-11-1999 strongly denying to those allegations also refusing that the triplicate key of the record room was with him. In fact, even the keys of my own table are being handed over to Branch Accountant at the end of the day, who keeps the branches keys. And thus totally refusing the charge of his involvement in tempering/destroying the relative banks records it has also been replied that it is only the record keeper or the concern custodian of the respective Instruments/Books/Registers/ledgers sheets etc, can through the light as to how those articles are missing. Ext. 27 is the chargesheet/article of charge dated 19-03-2002. Ext. 28 is the reply to the chargesheet by the second party workman denying all the allegations under the chargesheet Ext. 29 is the letter of the Bank dated 15-05-2002 revoking the suspension order of the second party workman informing that the proceedings relating to the chargesheet will continue and the treatment of suspension period undergone by you (workman) will be decided in due course. Ext. 30 is the letter dated 05-08-2002 of the management bank informing the workman for starting of departmental enquiry against him and regarding appointment of Shri J.V. Soni, Chief Manager, State Bank of India, Zonal Office, Gandhinagar as enquiry officer. Ext. 31 is the proceeding of the enquiry from 07-09-2002 to 18-11-2003. Ext. 32 is the second show cause notice issued to the second party workman with tentative punishment order of dismissal in terms of para 6 (a) of memorandum of settlement dated 10-04-2002 attaching with the copy of the enquiry report. Ext. 33 is the show cause submitted by the workman dated 19-06-2004 to the Assistant General Manager/Disciplinary Authority, SBI Zonal Office, Gandhinagar, Sector-10-B. Ext. 34 is the letter dated 12-07-2004 of the finding to the workman informing regarding grant of permission for personal hearing with Disciplinary Authority. Ext. 35 is the punishment order dated 25-09-2004 passed by the Disciplinary Authority imposing the punishment of dismissal from services of the second party workman. Ext. 36 is the memorandum of appeal submitted by the second party workman to the Appellate Authority dated 21, October-2004. Ext. 37 is letter dated 12-03-2005 as to information regarding personal hearing to the second party workman. Ext. 38 is the order dated 20-04-2005 passed by the Appellate Authority rejecting the appeal of the second party workman. Ext. 39 is the copy of the judgment of criminal case No. 901/2000 by which the second party workman Chandrakant Baldevdas Nayak was acquitted to the charges under Sectin 409, 420, 465, 467, 471 (2), 201 of the IPC and was found innocent.

(9) The second party workman Shri Chandrakant Baldevdas Nayak in his oral evidence at Ext. 10 the affidavit submitted on 19-09-2010 stated that he has been chargesheeted for misappropriation for Rs. 5,000 and suspended from duty, also departmental enquiry was initiated against him. Simultaneously criminal complaint was filed against him before Judicial Magistrate first class, Idar, the criminal court after holding trial acquitted him to all charges declaring him innocent and the state/bank

management did not prefer any appeal against judgment of acquittal, the copy of the judgment of the acquittal has been produced by him with list at Ext. 8/16 which has been given pakka Ext. 39. He further deposed in evidence that departmental enquiry was held against him and enquiry officer submitted his report to the Disciplinary Authority giving findings that the charges against the delinquent workman are not proved and that the first party/Disciplinary Authority without considering the explanation submitted by him recorded punishment of termination of his service from 25-09-2004 illegally. He was cross-examined in few sentences on 11-01-2011 by 1st party lawyer after granting of permission to cross-examine the second party. Earlier right to cross-examine the second party workman had been closed which was subsequently reopened. During cross-examination, it has come that after his removal from service he could not get any job elsewhere, he has became overaged and presently he is aged 56 years. This much is cross-examination on behalf of the first party. But in support of the stands taken in the written statement at Ext. 40 filed on 16-09-2010, even alternatively pleading that if this court holds unfairness in the procedure of action taken by the Disciplinary Authority, the first party be given opportunity to lead oral as well as documentary evidence to prove charges against the second party, the first party did not lead any evidence.

(10) In the instant case the second party workman has relied upon inquiry report and its findings given by the enquiry officer holding that the charges against the delinquent workman not proved and in that view of the matter totally unjustifying the action of the Disciplinary Authority in imposing the punishment of his dismissal from service. Even in that view of the matter and even on reopening of the right of the first party to cross-examine the second party workman and also reopening the right to lead evidence by the first party, the first party failed to lead oral as well as documentary evidence to prove the charges levelled against the second party in view of the observation given by the Disciplinary Authority, disagreeing with the findings of the enquiry officer.

(11) Mr. K.V Vyas learned counsel appearing for the second party in support of his argument that there was no any fresh material before the Disciplinary Authority to disagree with the findings of the enquiry officer and giving opinion of its own on the basis of enquiry report/inquiry proceedings itself, has relied upon a case law reported in 2007 (1) Labour laws notes 682 in the case of Luv Nigam and Chairman and Managing Director ITC Ltd. and another wherein their Lordship of the Hon'ble Apex Court have held that Disciplinary Authority differing from the findings of not guilty by enquiry officer then the employee is entitled to notice from the Disciplinary Authority to show cause against the tentative decision of the Disciplinary Authority differing with the findings of the enquiry officer who had exonerated the employee. It has been further held that the proceeding may be commenced from the stage of issuance of fresh show cause notice by the Disciplinary

Authority. It has been pointed out that the Disciplinary Authority had not commenced proceeding from the stage of issuance of fresh show cause notice upon the second party for conducting further enquiry himself, rather second show cause notice with the proposed punishment of dismissal was issued upon the second party which could not be issued because the enquiry officer had exonerated the Disciplinary Authority from the charge is not proved and so in that course there was no any legality in issuing second show cause notice with proposed punishment, rather the Disciplinary Authority ought to have commenced proceedings by issuance of fresh show cause notice with clear findings or the opinion disagreeing with the enquiry report and also indicating that there are material in the enquiry proceeding itself to prove the charge levelled against him.

(12) From going through the order of the Disciplinary Authority dated 25.09.2004 at Ext. 35 it appears that D.A. has turned down the case law submitted on behalf of the delinquent workman of the Hon'ble Supreme Court in Union of India V/s S.S. Valand reported in AIR 1964 SC-36 wherein their lordship have held that the suspicion cannot take the place of proved in departmental inquiry and further holding an employee guilty and punishing him for corrupt conduct merely on suspension in held to unjustified. The Disciplinary Authority however discarding aforesaid judgment of the Apex Court on the ground that the facts and circumstances in this case differs. But from perusal of the entire punishment order passed by the Disciplinary Authority I do not find anywhere the Disciplinary Authority has pointed out that there are sufficient material more than suspicion in holding the second party workman guilty to the charge. I have also gone through the entire enquiry proceeding and the findings of the enquiry officer. It has been clearly opined by the enquiry officer that examination-in-chief and cross-examination of the management witness M.K. Bagora who was branch manager at the material time and that he has handed over the SB withdrawal for Rs. 5,000 to teller for payment given by Shri Chandrakant Baldevdas Nayak (delinquent workman). It has been given further findings that the chargesheeted employee Shri Chandrakant Baldevdas Nayak was working as Senior Assistant at Idar branch had withdrawn the amount of Rs. 5000 from S.B. A/c No. 2/23106 on 12-07-1999, using a withdrawal from through teller Shri K.H. Ninama. In the findings given by the enquiry officer it has been mentioned that the presenting officer failed to produce relevant Savings Banks withdrawal from where it can be established that Shri Naik has made it fraudulent and withdrawn the amount, it has been also mentioned that Shri M.K. Bhagora Branch Manager has also said in evidence he may not be able to identify the account holder/customer for whom he brought the cash and the presenting officer had failed to produce any corroborative evidence which prove allegation levelled against Shri Chandrakant Baldevdas Nayak. Therefore enquiry officer treated that the allegation has

not been proved. The allegation No. 1 was not proved as per the findings of the enquiry officer. The allegation No. 2 that the chargesheeted employee was unauthorisedly keeping custody of triplicate keys of lock of the record room since 15-03-1999 and were suspected that he was involved in tempering with relative SB. Withdrawal forms, vouchers, saving bank day book, teller register, ledger sheets etc onward findings have been given that this is also not proved with such reasoning that the Presenting Officer has tried to establish that one of the keys of stationary room was in possession of Shri Chandrakant Baldevdas Nayak since 15-03-1999. On these scores the Presenting Officer has tried to connect that the chargesheeted employee was in possession of the record room key. It has been also given that the keys of stationary room was also in possession of branch accountant and equally can access the room as and when required by him. It has been opined that it is unfair to say that Shri Naik has alone tampered with relative records. On the other hand the observation made by the Disciplinary Authority regarding charge No. 2 appears to be hypothetical that access of the chargesheeted employee to the record room is possible from the stationary room as it was not practice at that branch to lock records room and on these scores the D.A. differs with the enquiry officer that CSE having access of the stationary room was in possession of record room keys. It has been also given that the keys of stationary room was also in possession of branch accountant and equally can access the record room as and when required by him.

(13) On behalf of the first party case law has been cited State Bank of India and others and Arvind K. Shukla reported in 2001 (1) LLJ-313 wherein their lordship of the Apex Court have held that when Disciplinary Authority disagreeing with the enquiry officer on certain charges then Disciplinary Authority is bound to records its tentative reasons and give opportunity to delinquent employee to represent before recording its ultimate findings. This case law appears to be good law. But in the facts and circumstances of this case there is no application of this case law because Disciplinary Authority as per its order dated 18-02-2004 has not issued a show cause notice for commencing the enquiry at the stage of Disciplinary Authority while disagreeing with the findings of the enquiry report rather had issued second show cause notice which is issued only agreeing with the findings of the enquiry officer that in enquiry the charges have been proved against the delinquent workman. But in the instant case when the enquiry officer exonerated the delinquent workman from all the charges as not proved and then the Disciplinary Authority was differing with such findings, there was no justification for issuing second show cause notice regarding tentative punishment of dismissal but such second show cause notice has been issued by the Disciplinary Authority which go to connect that any how Disciplinary Authority/Management of Bank was in a mood to punish the delinquent workman in spite of he being not found guilty and in the criminal trial to the charges and that in the departmental proceedings also the charges were not proved.

(14) Considering all the materials on the record discussed above and also in view of the facts and circumstance of the case and the legal position as discussed in the case law and also keeping in view as to the direction given to the Management of Bank at para 5 of the oral order dated 7-5-2007 passed in SCA 12168 of 2007 by the Hon'ble Gujarat High Court, I find and hold that the action of the management of State Bank of India in imposing the penalty of dismissal from service of Shri Chandrakant Baldevdas Nayak w.e.f 25-09-2004 is not at all legal, proper and justified. So, the order of dismissal of the workman is set aside. This issue is accordingly decided against the first party.

(15) Issue No. IV

Since the principle of natural justice has not been followed by the Disciplinary Authority in right perspective and the action imposing the penalty of dismissal from services has been held to be illegal, improper and unjustified, I further find and hold that the second party workman is entitled for his reinstatement with full back wages and continuity in service and for the consequential benefits. This issue is, accordingly, decided in favour of the second party workman.

(16) Issue No. I, II, V

In view of the findings given to issue No. III, IV in the foregoing, I further find and hold that the reference is maintainable and the second party workman has valid cause of action and that the second party workman is entitled for his reinstatement with full back wages and continuity in service with consequential benefits.

This reference is allowed accordingly with cost of Rs 5,000 also allowed to the workman to be paid by the 1st party.

First party is directed to reinstate the workman within 60 days of order failing which the back wages has to be paid with interest at @ 9% per annum.

This is my award.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2462.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इसी एल के प्रबंधतात्र के सबढ़ नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अम न्यायालय सं. 1-घनबाद के पंचाट (संदर्भ संख्या 54/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-06-2012 को प्राप्त हुआ था।

[सं. एस-20012/203/1990-आईआर (सी-1)]

अजीत कुमार, अनुपांग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2462.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 54/1991) of the Central Government Industrial Tribunal-cum-Labour

Court No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ECL and their workman, which was received by the Central Government on 29-6-2012.

[No. L-20012/203/1990-IR(C-I)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

In the matter of a reference U/s. 10 (1) (d) (2A) of the Industrial Dispute Act, 1947

Reference No. 54 of 1991

Parties:

Employers in relation to the management of Shampur 'B' Colliery of M/s. E.C.L.

AND

Their workman

Present : Shri H.M. SINGH, Presiding Officer

APPEARANCES :

For the Employers : None

For the Workman : None

State: Jharkhand

Industry : Coal

Dated, the 29-5-2012

AWARD

By Order No. L-20012/203/90-IR (C-I) dated 25-5-1991 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the demand of Bihar Colliery Kamgar Union (CITU) for regularisation of Shri Tara Pato Gorai as Security Guard is justified? If so, to what relief the workman is entitled to?"

2. The case of the concerned workman is that he had been working as Security Guard since 1974 and had put in more than 240 days attendance in the 1983, and as such he was entitled for regularisation as Security Guard from the year 1983 but the management did not regularise him as Security Guard. The concerned workman and the union represented before the management for regularisation of the concerned workman as Security Guard, but without any effect. Thereafter an industrial dispute before ALC(C), Dhanbad, which ended in failure resulting to the present dispute for adjudication. The demand of the concerned workman for regularisation as Security Guard with retrospective effect is justified.

It has been prayed that the Hon'ble Tribunal be pleased to answer the reference in favour of the workman by directing the management to regularise the concerned workman as Security Guard with retrospective effect.

3. The case of the management is that concerned workman was previously working as a Haulage Khalasi in daily rated Category-III in the underground. But due to his health condition he approached the management for light job on the surface. Accordingly on humanitarian ground and in consideration of his request the management put him on the job of Security Guard in 1983 even though he is not fit for that job. He was drawing the wages of Haulage Khalasi in daily rated Cat. III and the management did not refuse his wages in spite of the fact that the wages of a Haulage Khalasi in Cat. III are higher than those of Security Guard. In such circumstances, the demand of the union is not justified and the concerned workman is not entitled to any relief.

The employers therefore has prayed before this Hon'ble Tribunal to please pass an award accordingly.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. Both the parties have not produced any evidence nor have taken any step in spite of notice sent to them. It therefore, appears that neither parties are interested to contest the case.

6. Considering the facts and circumstances of the case, I come to the conclusion that the demand of Bihar Colliery Kamgar Union (CITU) for regularisation of Shri Tarapada Gorai as Security Guard is not justified and the concerned workman is not entitled to any relief.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 2 जुलाई, 2012

का.आ. 2463.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम व्यायालय सं. 1-धनबाद के पंचाट (संदर्भ संख्या 43/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-06-2012 को प्राप्त हुआ था।

[सं. एल-20012/125/1988 आई.आर.(सी-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 2nd July, 2012

S.O. 2463.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/1991) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 29-6-2012.

[No. L-20012/125/1988-IR (C-I)]

AJEET KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD**

In the matter of a reference U/s. 10 (1) (d) (2A) of the Industrial Disputes Act, 1947

Reference No. 43 of 1991

Parties:

Employers in relation to the management of Lodna Area of M/s. B.C.C.L.

AND

Their workman

PRESENT: Shri H.M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : Shri D. K. Verma, Advocate

For the Workman : None

State: Jharkhand

Industry : Coal

Dated, the 31st May 2012

AWARD

By Order No. L -20012/125/88-IR (Coal-I) dated 15-4-1991 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the demand that Shri Suresh Kumar Singh and 19 others shown in the Annexure who were employed through a contractor at Jeenagora South Tisra and other collieries of Lodna Area of M/s. B.C.C.L. and whose services were terminated by the said contractor, be reinstated in service with the said management of M/s. BCCL is justified? If so, to what relief these persons are entitled?"

2. The case of the concerned workman is that Suresh Kumar Singh and 10 others have been working regularly since sever years as Heavy Tyndal Mazdoors at South Tisra Colliery and Jeenagora colliery and at other places of Lodna Area of BCCL. The workman concerned are employees as Heavy Tyndals to carry machineries, motor pumps, cables, rails, garters and other heavy materials underground required for erection, fixation, instalation repairs etc. They are required to work under Engineers, Foremen, Electricians, Overmen, Mining Sirdars. Although they have been working as Heavy Tyndals, they have not been paid proper wages as have been paid to other regular employees. The services of the workmen were stopped/terminated by the management. The concerned workmen raised an industrial dispute which ultimately ended in failure and the Government of India, Ministry of Labour referred the dispute for adjudication to this Tribunal.

Under such circumstances, it has been prayed that the Hon'ble Tribunal be pleased to hold that the demand of the concerned workman is justified and they be reinstated in service with full back wages.

3. The case of the management is that one Mahadeo was a contractor of M/s. BCCL and he carried on contract jobs at different colliery establishment of Lodna Area as and when required. Shri Mahadeo was awarded contract jobs at different collieries on the basis of work order issued to him. The contractor used to recruit his own workmen according to requirement on the job undertaken by him. The engagement of the workers were purely casual in nature as on regular job was available to him in any particular colliery. The contractor was mostly engaged on transport of materials from one place to another. So far as any prohibitory category of jobs are concerned the management can engage contractors to efficiently handle the situation as and when required. There is no provision in the Contract Labour (Regulation & Abolition) Act, 1970 to departmentalise the workers engaged by the contractors on any consideration. Therefore the union cannot claim for recruiting the contractor's workers under the management.

Under the facts and circumstances stated above it has been prayed that the Hon'ble Tribunal be graciously pleased to pass the award holding that the concerned workman are not entitled to any relief.

4. Both the parties have filed their rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned workman produced WW-1, Suresh Kumar Singh.

No oral evidence produced by the management.

6. The concerned workman wanted to be regularised in the service at Jeenagora colliery because they are working with the management is permanent nature job.

In this respect the evidence of WW-1, Suresh Kumar Singh is very much material. He has stated in his cross-examination that regular appointed employee of the company gets appointment letter, Identity Card and pay slip and is made member of C.M.P.F. None of us were given appointment letter, Identity Card or pay slip, nor were made members of C.M.P.F. Again at page 3 he stated that we don't have any document to show as to on which dates or during what period we had worked there.

7. Management argued that the concerned workman wanted to be employed at Jeenagora colliery. They are not working with management. There is no employer-employee relation exists between the management and the persons concerned.

Considering the evidence of WW-1 that they were not given appointment letter, Identity Card, pay slips by the management and they were not made members of C.M.P.F. so they are not entitled to be regularised with the management.

In the result I hold that the demand that Shri Suresh Kumar Singh and 19 others, names mentioned in the annexure to the order of reference who were employed through a contractor at Jeenagora, South Tisra and other collieries of Lodna Area of M/s. BCCL and whose services were terminated by the said contractor, be reinstated in service with the said management of BCCL is not justified. Accordingly, they are not entitled to any relief.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 3 जुलाई, 2012

का.आ. 2464.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दी मीमोन कोमरटीव बैंक लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण I, मुम्बई के पंचाट (संदर्भ संख्या 30/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-7-2012 को प्राप्त हुआ था।

[सं. एल-12012/186/2005-आई आर (बी-1)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 3rd July, 2012

S. O. 2464.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.30/2005) of the Central Government Industrial Tribunal No.1, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of The Memon Cooperative Bank Ltd., and their workmen, received by the Central Government on 3-7-2012.

[No. L-12012/186/2005-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

Reference No.CGIT/30/2005

Date: 5-6-2012

Mr. Nabar, Adv. Present on behalf of the second party workman.

None is present on behalf of the first party.

An application has been filed on behalf of the second party workman and it has been prayed that this reference be disposed of without adjudication on merits for want of jurisdiction with liberty to the second party workman to approach appropriate forum in accordance with law.

Heard.

The application is allowed. this Tribunal does not have jurisdiction to pass an award in this reference and, therefore, the reference stands disposed of without adjudication on merits and the second party workman will be at liberty to pursue the remedy before appropriate forum in accordance with law.

Sd/-, illegible
(Presiding Officer)

नई दिल्ली, 3 जुलाई, 2012

का.आ. 2465.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर.ए.पी.एस.

के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक अधिकरण संख्या कोटा के पंचाट (संदर्भ संख्या 33/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-7-2012 को प्राप्त हुआ था।

[सं. एल-42012/2/2002-आई आर (सीएम-II)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 3rd July, 2012

S. O. 2465.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.33/2003) of the Industrial Tribunal, Kota as shown in the Annexure in the Industrial Dispute between the management of Rajasthan Atomic Power Station Unit 5&6, Rajasthan Atomic Power Station Unit 3&4, and their workmen, received by the Central Government on 3-7-2012.

[No. L-42012/2/2002-IR (CM-II)]

AJEEET KUMAR, Section Officer

अनुबन्ध

न्यायाधीश, औद्योगिक न्यायाधिकरण,
कोटा/केन्द्रीय/कोटा/राज.

पीठासीन अधिकारी—श्री. प्रकाश चन्द्र पगारीया, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : औ. न्या./केन्द्रीय/-33/2003

दिनांक स्थापित : 23-9-03

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश संख्या एल-42012/2/2002-आई आर (सीएम-II) दिनांक 8-8-03

निर्देशक विवाद अन्तर्गत धारा 10(1) (घ)

औद्योगिक विवाद अधिनियम, 1947

मध्य

1- पी. के. शर्मा

2- नदलाल गाड़री,

द्वारा जनरल सेक्रेट्री, परमाणु विद्युत कर्मचारी यूनियन (सीटू)
रावतभाटा वाया कोटा/राजस्थान

-प्रार्थीगण श्रमिक

एवं

1-स्टेशन डायरेक्टर, राज. ओटोमिक पावर स्टेशन 1 व 2
रावतभाटा वाया कोटा।

2-प्रोजेक्ट डायरेक्टर, राज. ओटोमिक पावर स्टेशन 1 व 2
रावतभाटा वाया कोटा/राजस्थान

अप्रार्थीगण नियोजक

उपस्थित

प्रार्थीगण श्रमिक की ओर से प्रतिनिधि:- श्री जी. एल. मीणा

अप्रार्थीगण नियोजक की ओर से प्रतिनिधि:- श्री मुहम्मद मुनीर अंसारी
प्रबन्धक (मानव संसाधन)

अधिनिर्णय दिनांक: 15-3-2012

अधिनिर्णय :

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के उक्त प्रासादिक आदेश/अधिसूचना दि. 8-8-03 के जरिये निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10 (1) (घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :

"Whether the contention of the Union that the pay of S/Shri P.K. Sharma, Nand Lal Gadari, T/M may be fixed in the new pay scale from the date of their promotion i.e. 1-5-1996 as per the option form submitted to the management of R.A.P. S. I&2, Rawatbhata is correct and justified? If yes, to what relief both the workmen are entitled to and from which date?"

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबन्ध उत्परान्त पक्षकारों को सूचना/नोटिस विधिवत जारी कर अवगत करवाया गया।

3. प्रार्थीगण कर्मकार की ओर से क्लेम स्टेटमेन्ट पेश किया गया जिसमें यह वर्णित किया गया कि प्रार्थीगण पी. के. शर्मा व नंदलाल गाड़ी, अप्रार्थी राजस्थान परमाणु विजलीघर में कार्यदक्ष-एफ के पद पर कार्यरत हैं। अप्रार्थीगण द्वारा इनका 5वें वेतन आयोग, 1996 व परमाणु विभाग द्वारा गठित आनन्द कमेटी की सिफारिशों के आधार पर वेतनमान का निर्धारण किया जाना था। प्रार्थी पी. के. शर्मा की पदोन्नति कार्यदक्ष-ई से कार्यदक्ष-एफ पर 1996 से की गयी तथा पुराने वेतनमान के आधार पर 1850 रु. मूल वेतन निर्धारित किया गया। प्रार्थी नन्दलाल गाड़ी का भी इसी अनुरूप पदोन्नति व वेतन निर्धारण किया गया। उक्त 5वें वेतन आयोग व आनन्द कमेटी की सिफारिशों के बाद 1-1-96 से 1720 रु. मूल वेतन को आधार मानकर नया वेतनमान निर्धारित किया गया जो गलत है। इस सम्बन्ध में पूर्व के पदोन्नति आदेश की प्रति अनुलग्नक 1व पश्चातवर्ती नये वेतनमान निर्धारण के आदेश की प्रति अनुलग्नक 2 भी संलग्न हैं। जब पूर्व में इन दोनों कर्मकारों का मूल वेतन 1850 रु. मान लिया गया था तो इनका नये वेतनमान में 6025 रु. वेतन नियंत्रन किया जाना था लेकिन विभाग द्वारा 1720 रु. मूल वेतन मानकर 5300 रु. ही निर्धारित किया गया। इससे दोनों कर्मकारों को मूल वेतन के रूप में 725 रु. की हानि हो रही है जो सरासर गलत है एवं यह प्रक्रिया विभाग द्वारा मांगे गये विकल्प के विपरीत भी है। इस सम्बन्ध में वेतनमान निधरण का आदेश अनुलग्नक 3 है। विभाग ने एक पत्र क्रमांक एस-629 दि. 10-8-99 को जारी किया जिसमें यह स्पष्ट उल्लेख किया गया कि जो कर्मचारी पदोन्नति की तिथि से वेतनमान निर्धारण

करवाना चाहते हैं वे नया विकल्प दे सकते हैं, लेकिन विभाग ने इस परिषत्र की पालना नहीं की एवं कर्मचारी द्वारा भरे गये विकल्प-पत्र के विस्तृत वेतनमान निर्धारित कर दिया। विभाग के परिषत्र की प्रति अनुलग्नक 4 है। कर्मचारियों ने वेतनमान निर्धारण के लिए पदोन्नति की तिथि 1-5-96 को जो विकल्प-पत्र भरे हैं उसी अनुरूप इनका वेतन का निर्धारण किया जाना था परन्तु अप्रार्थी प्रबन्धन द्वारा 1-5-96 को 1850 रु. व पुनरीक्षित 5675 रु. कर दिया जो सही नहीं है, जबकि इनका पुनरीक्षित वेतनमान में 6025 रु. निर्धारित होना चाहिए था। इस सम्बन्ध में प्रबन्धन द्वारा सीसीएस (आरपी.) नियम 1997 के नियम 9 का भी ध्यान नहीं रखा गया। अतः प्रार्थीगण कर्मकार की ओर से इन दोनों कर्मकारों का वेतनमान 1-5-96 को मूल वेतन 1850 रु. मानकर पुनरीक्षित में 6025 रु. नयी वेतन शुरूखला में निर्धारित किये जाने का आदेश अप्रार्थीगण को दिये जाने की राहत की मांग इस क्लेम स्टेटमेन्ट के माध्यम से की गयी।

4. इस क्लेम स्टेटमेन्ट का अप्रार्थीगण की ओर से जवाब पेश किया गया जिसमें प्रार्थीगण कर्मकारों के अप्रार्थीगण के यहाँ कार्यदक्ष-एफ के पद पर कार्यरत होने के तथ्य को स्वीकार किया गया तथा यह कायन किया गया कि इन प्रार्थीगण के वेतनमान का निर्धारण 5वें वेतन आयोग की सिफारिशों के अनुसार जिस वेतन शुरूखला में किया जाना था उसी अनुरूप किया गया है एवं कोई विसंगति नहीं रखी गयी। दोनों कर्मकारों ने 5वें वेतन आयोग के अनुरूप वेतन निर्धारण हेतु अपना विकल्प पदोन्नति की तिथि से दिया है एवं पदोन्नति की तिथि 1-5-96 को दोनों कर्मकार कार्यदक्ष-ई के पद पर 1760 रु. द्वा कर रहे थे एवं इस सम्बन्ध में भारत सरकार के नियम 15 दिसंबर, 1986 के स्पष्टीकरण के अनुसार पदोन्नति से पूर्व के वेतन को पहले नये वेतनमान में संशोधित कर निर्धारण करना होता है उसके बाद पदोन्नत संशोधित वेतनमान में निर्धारण किया जाता है। प्रार्थीगण द्वारा 1850 रु. में वेतन निर्धारण हेतु प्रस्तुत किया गया दावा सही नहीं है क्योंकि 1850 रु. पूर्व वेतनमान में नया वेतनमान लागू होने से पूर्व कार्यदक्ष-एफ की पदोन्नति पर निर्धारित की गयी वेतन राशि है जो नये वेतनमान लागू होने के बाद परिवर्तित हो जाती है इस सम्बन्ध में अनुलग्नक आर-1 है। दोनों ही कर्मकार का पदोन्नति से पूर्व वेतनमान उनके पूर्व के पद कार्यदक्ष-ई में 1760 रु. में निर्धारण करना था एवं उसी अनुरूप निर्धारित किया गया। अतः प्रार्थीगण द्वारा 1850 रु. पर वेतन निर्धारण करने का दावा सही नहीं है। प्रार्थीगण द्वारा वेतनमान 1850 रु. आधार मानकर 6025 रु. निर्धारण करने के लिए वेतन आयोग के नियमों में कोई गलती नहीं है तथा प्रार्थीगण से जो विकल्प मांग गया था उसी अनुरूप पदोन्नति तिथि से ही उनका वेतन निर्धारण किया गया है। पूर्व में 5वें वेतन आयोग में जो विकल्प मांगा गया था वो या तो 1-1-96 से या वेतन वृद्धि की तिथि से या पदोन्नति की तिथि से मांगा गया था। इसके अलावा और कोई वेतन निर्धारण करने का प्रावधान नहीं है। प्रार्थीगण द्वारा प्रस्तुत विवरण सही नहीं है एवं सही विवरण अप्रार्थीगण ने अपने जवाब के चरण सं. 8 में वर्णित किया है जिसके अनुसार 1-5-96 को कार्यदक्ष-ई में 1760 रु. मानकर वेतन निर्धारित किया गया। प्रार्थीगण द्वारा अपने क्लेम स्टेटमेन्ट के क्रम सं. 10 में दिया गया उदाहरण सही नहीं है। यह

कहना भी सही नहीं है कि प्रार्थीगण के वेतन निर्धारण में नियम 22 तथा नियम 9 का ध्यान नहीं रखा गया हो। अतः प्रार्थीगण जिन तथ्यों के आधार पर अनुतोष की मांग कर रहे हैं वे सही तथ्यों पर आधारित नहीं होने से कोई अनुतोष प्राप्त करने के अधिकारी नहीं हैं एवं क्लेम स्टेटमेन्ट खारिज किया जावे।

5. इसके पश्चात साक्ष्य प्रार्थीगण में प्रार्थीगण प्रेमकुमार शर्मा व नन्दलाल गाड़ी के शपथ-पत्र पेश हुए अप्रार्थीगण द्वारा उनसे जिरह की गयी। तत्पश्चात अप्रार्थीगण की साक्ष्य में मुहम्मद मनीर अंसारी का शपथ-पत्र पेश हुआ, प्रार्थीगण द्वारा उनसे जिरह की गयी। प्रतेखीय साक्ष्य में कर्मकारों की ओर से प्रदर्श डबल्यू। व डबल्यू. 2, Ex W3 विभाग के परिपत्र व कर्मकारों द्वारा भरे गये विकल्प-पत्र की फोटोप्रितियां प्रदर्शित करवायी गयीं। अप्रार्थीगण की ओर से इस सम्बन्ध में सीसीएस (आरपी.) रूल्स, 1997 के नियम 4, 5 व 9 व कार्यालय आदेश दि. 12-7-99 की फोटोप्रितियां क्रमशः प्रदर्श एम। लगा.एम.4 के रूप में प्रदर्शित करवायी गयीं।

6. उभयपक्ष की साक्ष्य सम्बन्धित के पश्चात प्रार्थीगण की ओर से लिखित बहस भी पेश की गयी, नकल अप्रार्थीगण के प्रतिनिधि को दिलायी गयी, इसके पश्चात उभयपक्ष की मौखिक बहस सुनी गयी।

7. लिखित बहस व मौखिक बहस दोनों में ही सम्प्रिलित रूप से कर्मकारों की ओर से यह स्थिति प्रकट हुई है कि दोनों कर्मकारों से जो विकल्प-पत्र प्रदर्श डबल्यू.2 व डबल्यू.3 लिये गये हैं वे अप्रार्थीगण के आदेश/परिपत्र प्रदर्श डबल्यू। दि. 10-8-99 के अनुक्रम में लिये गये हैं तो अब इन दोनों कर्मकारों का वेतन नियतन भी 5वें वेतन आयोग तथा विभाग द्वारा गठित आनंद कमेटी की सिफारिशों के अनुरूप उनकी पदोन्नति तिथि 1-5-96 को पुराने मूल वेतन 1850 रु. को मानकर नया वेतन 6025 रु. नियतन किया जाना चाहिए था परन्तु अप्रार्थी प्रबन्धन ने उनका 1-5-96 को पुराना मूल वेतन 1850 रु. तो माना है परन्तु नये मूल वेतन 6025 रु. की जगह 5675 रु. माना है जो उचित नहीं है। अतः इन दोनों कर्मकारों का पुराना मूल वेतन 1850 रु. व नया वेतनमान 6025 रु. मानकर उसी अनुरूप लाभ प्रदान किया जावे क्योंकि विभाग द्वारा अपने पूर्व के आदेश प्रदर्श डबल्यू। 1 को वेतनमान नियतन करने से पूर्व प्रत्याहरित नहीं किया गया है।

8. इसके विपरीत अप्रार्थीगण प्रबन्धन की ओर से दलील दी गयी कि उनके विभाग में प्रतिवर्ष मार्च एवं नवम्बर माह में हर कर्मकार को वेतन वृद्धि देते होते हैं तथा ये प्रार्थीगण कर्मकार जिस श्रेणी कार्यदक्ष-ई से एक में पदोन्नति हुए हैं, इसी तरह अप्रार्थीगण के संस्थान में कुल 48 कर्मकार भी ई से एक श्रेणी में पदोन्नति इन्हीं तारीखों को हुए हैं। उन सभी कर्मकारों ने अपने वेतनमान नियतन बाबत कोई आपत्ति नहीं उठायी है तथा अप्रार्थीगण के संस्थान में प्रायः पदोन्नति एवं वेतन वृद्धि की तिथि एक ही रहती है, किसी अपवाद मामले में बह तिथि अलग हो सकती है। इन कर्मकारों के मामले में जो स्थिति हस्तगत विवाद के सम्बन्ध में है, उसमें मुख्य रूप से 5वें वेतन आयोग के अनुसार सर्वप्रथम कर्मकारों का वेतन नियतन 1-1-96 को किया जाना था, उसके बाद में उनको पदोन्नति

की तिथि को वेतन नियतन किया जाना था। अतः इन प्रार्थीगण कर्मकार से भले ही विकल्प-पत्र ले लिये गये हों परन्तु इनका 1-1-96 को जो मूल वेतन इस 5वें वेतन आयोग के अनुरूप आ रहा था वह 1720 रु. आ रहा था एवं उसके बाद में 1-5-96 को इनका मूल वेतन 1760 रु. होता है। इस बात को प्रार्थीगण के गवाह प्रेमकुमार शर्मा ने भी जिरह में स्वीकार किया है कि 1-5-96 को वेतन वृद्धि के बाद मूल 1760 रु. होता था। पुनः परीक्षण में इस गवाह ने 1850 रु. लिखाया है। इसके अलावा अप्रार्थीगण द्वारा यदि गलत रूप से इन कर्मकारों का वेतन नियतन किया गया होता तो इस बाबत भी आपत्ति उठा सकते थे परन्तु उनकी ओर से कोई आपत्ति नहीं उठायी गयी। आनंद कमेटी की रिपोर्ट में केवल नया विकल्प-पत्र भरे जाने का उल्लेख है परन्तु उससे कोई अधिकार प्राप्त नहीं हो जाता है। अप्रार्थीगण द्वारा कहीं पर भी इन कर्मकारों के वेतन नियतन के मामले में त्रुटि या उपेक्षा नहीं बरती गयी है, प्रत्येक कार्यवाही सद्भावनापूर्वक की गयी है। क्लेम स्टेटमेन्ट निराधार तथ्यों पर पेश किया गया है, अतः खारिज किया जावे।

9. हमने उभयपक्ष द्वारा दी गयी दलीलों पर मनन किया तथा उभयपक्ष द्वारा प्रस्तुत साक्ष्य व सामग्री का परिशीलन किया। दोनों ही कर्मकार 1-5-96 से पूर्व कार्यदक्ष-ई की श्रेणी में से, बाद में 1-5-96 से इन्हें कार्यदक्ष-एफ में पदोन्नत कर दिया गया जो उभयपक्ष में स्वीकृत तथ्य है।

10. अब जहां तक विकल्प-पत्र कर्मकारगण से लेने का सवाल है, उसके आधार पर किसी कर्मकार को उसी अनुरूप वेतनमान प्राप्त करने का अधिकार प्राप्त नहीं हो जाता है, अपितु उस विकल्प-पत्र की जांच होती है एवं उसके बाद में नियमानुसार जो भी वेतनमान प्रदत्त किया जा सकता है उसी अनुरूप प्रदत्त किया जाता है। अतः विकल्प-पत्र के आधार पर जो कर्मकार वही वेतनमान दिये जाने की मांग, अधिकार के रूप में नहीं कर सकता। अप्रार्थी विभाग द्वारा केवल इन दोनों कर्मकारों का ही वेतन नियतन नहीं किया गया अपितु अन्य कर्मकारों का भी किया गया, उनकी भी स्थिति इन कर्मकारों जैसे ही थी। हाँ इतना अवश्य है कि यह विवाद या भ्रम की स्थिति भी विभाग के परिपत्र प्रदर्श डबल्यू। दि. 10-8-99 के कारण ही हुई है। परन्तु इस बारे में भी जैसा कि ऊपर स्पष्ट किया जा चुका है कि केवल विकल्प-पत्र भर देने से ही कोई कर्मकार उसी अनुरूप वेतनमान प्राप्त करने का अधिकारी नहीं बन जाता है। दि. 1-5-96 से पूर्व ये कर्मकार कार्यदक्ष-ई की श्रेणी में कार्यरत है एवं 5वें वेतन आयोग का लाभ 1-1-96 से देय था तो उस दिन इन कर्मकारों का वेतनमान 1-1-96 को पुराने मूल वेतन के अनुरूप निर्धारित करना था जो 1720 रु. था। अब इन कर्मकारों की वार्षिक वेतन वृद्धि के कारण 1-5-96 को मूल वेतन 1760 रु. हो जाता है। अब ग्रेड-ई से एफ में पदोन्नत होने के फलस्वरूप इनका वेतनमान 1850 रु. नियत किया जाकर मूल वेतन 5675रु. निर्धारित किया गया एवं इन प्रार्थीगण कर्मकार ने अपने वेतनमान का लाभ अपनी पदोन्नति की तिथि से ही चुना था। अतः ऐसी परिस्थिति में पदोन्नति तिथि से पूर्व इनके पुराने वेतनमान से नये वेतनमान में 1-1-96 को 1720 रु. में नियत किया गया था फिर बाद में पदोन्नति की तिथि व वेतनमान की तिथि 1-5-96 से 1760 रु. में वेतन नियतन किया गया। इस सम्बन्ध में

सीसीएस (आर. पी.) रूल्स, 1997 के नियम 4, 5 व 9 का अवलोकन किया जावे तो इन नियमों के समग्र अध्ययन से यह स्थिति प्रकट होती है कि यदि कोई कर्मकार पुनरीक्षित वेतनमान 1-1-96 के बाद में प्राप्त करता है तो उसका वेतन नियतन 1-1-96 को तो पुराने प्रचलित वेतन श्रृंखला में ही किया जायेगा एवं जिस तिथि को वह 1-1-96 के बाद में अपनी वेतन वृद्धि से नया लाभ प्राप्त करना चाहता है तो उस तिथि को उसका उसी अनुरूप नये वेतनमान में वेतन नियतन किया जायेगा । अतः इस मामले में भी इन दोनों कर्मकारों को जब पदोन्नति तिथि या वार्षिक वेतन वृद्धि 1-1-96 के बाद की 1-5-96 की है तो 1-1-96 को उनकी पुरानी वेतन श्रृंखला के हिसाब से ही वेतन नियतन किया जायेगा एवं 1-5-96 को नये वेतनमान में उनकी वार्षिक वेतन वृद्धि को सम्मिलित करते हुए वेतन नियतन किया जायेगा ।

11. इसी क्रम में यहाँ यह उल्लेख करना भी उचित होगा कि प्रार्थी कर्मकार प्रेम कुमार शर्मा ने अपनी जिरह में यह स्पष्ट कथन किया कि 1-5-96 को मैं 1760 रु. डा कर रहा था एवं उस समय में कार्यदक्ष-ई के पद पर था एवं 1-5-96 को मेरा मूल वेतन, वेतन वृद्धि के बाद में 1760 रु. होता था । परन्तु पुनः परीक्षण में इस गवाह ने इस बात को गलत बता दिया । दूसरे गवाह नन्दलाल गाड़ी ने अपने शपथ-पत्र में कथन किया कि 1-5-96 को मेरी पदोन्नति हुई थी । अतः इसके पहले तो इन दोनों कर्मकारों को पुराने वेतनमान का ही लाभ दिया जाना है । गवाह नन्दलाल गाड़ी ने जिरह में वह भी स्वीकार किया कि 5वें वेतन आयोग के अनुसार अन्य कर्मचारियों के वेतनमान भी निर्धारित किये गये हैं तथा मुझे पता नहीं कि मेरे वेतन निर्धारण व अन्य कर्मचारियों के वेतन निर्धारण में एक ही नियमों का पालन किया गया है या नहीं ।

12. इस मामले में इन कर्मकारों को अपनी साक्ष्य से यह भी साबित करना था कि इहीं कर्मकारों जैसी अन्य कर्मकारों की वेतन वृद्धि या पदोन्नति की तिथि 1-1-96 के बाद की थी या इन कर्मकारों जैसी 1-5-96 की ही थी एवं उन्हें इन कर्मकारों इन कर्मकारों से ज्यादा वेतनमान दिया गया एवं इन कर्मकारों का कम वेतनमान नियत किया गया या इनके साथ भेदभावपूर्ण व्यवहार किया गया । ऐसा एक भी मामला ये कर्मकारों ने केवल मात्र अपने विकल्प पत्र को ही अपना अधिकार मान लिया है जो किसी रूप में उचित नहीं कहा जा सकता है । अप्रार्थी प्रबन्धन द्वारा जो सूची इस मामले में अनुलग्नक-1 पेश की गयी है उसमें इन कर्मकारों के अलावा अन्य कर्मकारों के भी नाम वर्णित हैं जिन्हें कि कार्यदक्ष-ई से एक श्रेणी में 1-5-96 को पदोन्नत किया गया है एवं उनका वेतन नियत भी इन दोनों कर्मकारों के अनुरूप ही किया गया है । अतः इस मामले में प्रार्थीगण कर्मकारों का वेतन नियतन जिन नियमों के अनुसार किया जाना चाहिए था उसी अनुरूप किया गया है । कहीं पर भी कोई नियमों के विपरीत या प्रार्थीगण के साथ अन्यायपूर्ण तरीके से वेतनमान नियतन किया जाना प्रकट नहीं होता है । ऐसा प्रतीत होता है कि प्रार्थीगण कर्मकार ने अप्रार्थीगण के परिपत्र दि. 10-8-99 के क्रम में पेशशुदा विकल्प-पत्र को ही अपना अधिकार मान लिया है जबकि विकल्प-पत्र के आधार पर ही वेतनमान नियतन कराया जाना

अधिकार के रूप में नहीं माना जा सकता है । वेतनमान नियतन किये जाने का विकल्प देना एक अलग बात है एवं वेतनमान नियत होना एक अलग तथ्य है । वेतनमान का नियतन तो नियम के अनुरूप ही होता है भले ही विकल्प-पत्र में कोई अलग स्थिति प्रकट कर दी गयी हो । अतः इस न्यायाधिकरण की राय में इस मामले में प्रार्थीगण कर्मकार का दिनांक 1-5-96 को जो वेतनमान नियतन अप्रार्थी द्वारा किया गया है वह उचित ही है एवं इन परिस्थितियों में प्रार्थीगण कर्मकार कोई अनुतोष प्राप्त करने के अधिकारी नहीं बनते हैं ।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा अपने आदेश/अधिसूचना सं. एल-42012/2/2002 (आईआर-सीएप-2) दि. 8-8-03. के जरिये समप्रेरित निर्देश को अधिनिर्णत कर इसी प्रकार उत्तरित किया जाता है कि अप्रार्थीगण नियोजक प्रबन्धन आर. ए.पी.एस. 1 व 2 राबतभाटा, कोटा/राज./द्वारा प्रार्थीगण कर्मकार पी.के. शर्मा व नन्दलाल गाड़ी का दिनांक 1-5-96 को जो वेतनमान नियतन किया गया है वह उचित है एवं इन परिस्थितियों में प्रार्थीगण कर्मकार कोई अनुतोष प्राप्त करने के अधिकारी नहीं है ।

प्रकाश चन्द्र पण्डित, न्यायाधीश

नई दिल्ली, 3 जुलाई, 2012

का.आ. 2466.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसार में, केन्द्रीय सरकार एन.डी.डी.बी. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-2, मुम्बई के पंचाट (संदर्भ संख्या 21/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-7-2012 को प्राप्त हुआ था ।

[सं. एल-42012/17/2005 आई आर (सी-II)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 3rd July, 2012

S.O. 2466.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 21/2008) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in the relation to the management of NDDB and their workmen, received by the Central Government on 3-7-2012.

[No. L-42012/17/2005-IR (C-II)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

K.B. KATAKE, Presiding Officer

Reference No. CGIT-2/21 of 2008

EMPLOYERS IN RELATION TO THE MANAGEMENT OF NATIONAL DAIRY DEVELOPMENT BOARD

The Manager,
National Dairy Development Board
Western Express Highway
Goregaon (E),
Mumbai 400065.

AND
Their Workmen

The President,
Shramik Mahasangh
180-C, 1st floor
J.J. Keni Lane
Dharavi Koliwade
Dharavi Road,
Dharavi, Mumbai 400 019

APPEARANCES:

For the Employer : Mr. Mohan Das, Representative

For the Workmen : No appearance

Mumbai, the 23rd April, 2012

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-42012/17/2005-IR (CM-II), dated 24-3-2008 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the demand of Shramik Mahasangh, Mumbai as per Exhibit ‘F’ (schedule enclosed) in W.P. No. 354/2007 is legal and justified ? If so, to what relief are the workmen entitled ?”

SCHEDULE

1. That the workmen listed at Annexure ‘A’ hereto be treated as the direct and permanent employees of the National Diary Development Board with effect from their respective dates of joining the National Dairy Development Board as indicated in the said Annexure ‘A’;

Or in the Alternative

2. That the workmen listed at serial nos.7—11 of Annexure ‘A’ hereto be treated as the direct and permanent employees of the National Dairy Development Board with effect from their respective dates of joining the National Dairy Development Board as indicated in the said Annexure ‘A’ and that the workmen listed at Serial nos.1—6 of Annexure ‘A’ hereto be treated as the direct and permanent employees of “Fruit & Vegetable Project”, National Dairy Development Board, with effect from their respective dates of joining the “Fruit & Vegetable Project”, National Dairy Development Board as indicated in the said annexure ‘A’;

3. That the workmen listed at Annexure ‘A’ hereto be reinstated in the service of National Dairy Development Board with full back-wages and continuity of service with effect from the respective dates of their removal as indicated in the said Annexure ‘A’.

Or in the alternative

4. That the workmen listed at serial nos.7—11 of Annexure ‘A’ hereto be reinstated in the service of National Dairy Development Board with full back wages and continuity of service with effect from the respective dates of their removal, as indicated in the said Annexure ‘A’ and the workmen listed at serial nos. 1—6 of Annexure ‘A’ hereto be reinstated in the service of “Fruit & Vegetable Project”, National Dairy Development Board with full back wages and continuity of service with effect from the respective dates of their removal, as indicated in the said Annexure ‘A’.

ANNEXURE ‘A’

1. A. Mari Muthu
2. M. Ramaswamy
3. P. Pushpanathan
4. M. Armugam
5. V. Chellamuthu
6. A. Suryakala
7. K. Parasuram
8. R. Murugavel
9. P. Ramalingam
10. G Devraj
11. Venkatesh.

2. After receipt of the reference, notices were issued to both the parties. On 6-1-2009 General Secretary of Krantikari Kamgar Union filed application (Ex-8) stating that they be permitted to represent the workmen concerned in this reference. Orders were passed rejecting the said application since union or their advocate was no present. Thereafter the matter was adjourned on several occasions for filing statement of claim. Inspite of that nobody appeared on behalf of the union nor filed their statement of claim. When there is no statement of claim, the matter cannot be decided on merits. Therefore the reference deserves to be dismissed for want of prosecution. Thus the order:

ORDER

Reference stands dismissed for want of prosecution.
No order as to cost.

Date : 23-4-2012

K. B. KATAKE, Presiding Officer

नई दिल्ली, 3 जुलाई, 2012

का.आ. 2467.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 36/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-7-2012 को प्राप्त हुआ था।

[सं. एल-22012/244/1994-आई आर (सो-II)]
अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 3rd July, 2012

S.O. 2467.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 36/96) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur, as shown in the Annexure in the Industrial Dispute between employers in relation to the management of SECL and their workmen, which was received by the Central Government on 3-7-2012.

[No. L-22012/244/1994-IR (C-II)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/36/96

SHRI MOHD. SHAKIR HASAN, Presiding Officer

General Secretary,
Chattisgarh Khadan Karkhana Mazdoor Union,
Bankimogra,
Distt. Bilaspur (MP) ... Workman

Versus

Chairman-cum-Managing Director,
SECL,
Head Office Seepat Road,
Bilaspur (MP) ... Management

AWARD

Passed on this 24th day of May 2012

I. The Government of India, Ministry of Labour vide its Notification No.L-220 12/244/95-IR(C-II) dated 30-1-96 has referred the following dispute for adjudication by this tribunal:-

“ Whether the action of the management of SECL, Bilaspur in not providing employment to the dependent of Late Chauth Ram, Ex-Timber Mistry, SECL, Banki Colliery who died in a mine accident on 24-7-72 is justified ? If not, what relief Shri Ashok

Kumar the dependent of Late Chauth Ram entitled to?”

2. The case of the Union/applicant in short is that Late Chauth Ram was working as Timber Mistry at Banki Colliery of National Coal Development Corporation Ltd. (in short NCDC Ltd.). He died in a colliery accident on 24-7-72. His son Ashok Kumar was minor at that time. After nationalization of coal mines, NCDC Ltd was merged in Coal India Ltd. of SECL having its headquarter at Bilaspur. The son of the deceased workman Ashok Kumar after attaining the age of majority gave an application before Chairman-cum-Managing Director on 17-2-1989 for employment on compassionate ground along with his mother Bachhan Bai. The provision of appointment on compassionate ground to the dependents of the deceased workman was introduced for the first time in National Coal Wage Agreement-II (in short NCWA-II) on 1-1-1979. It is stated that the management had extended the provision of compassionate employment to many of the dependents of the workmen after the provision of NCWA-II who died prior to 1-1-79 and were minors at the time of death of the respective workmen but the same is denied and discriminated to the applicant Ashok Kumar inspite of several representations. It is submitted that the management be directed to take in employment on the ground of compassionate appointment by virtue of death of his father Late chauth Ram while in NCDC Ltd. as has been done in other cases.

3. The management appeared and filed Written Statement to contest the reference. The case of the management, inter alia is that Late Chauth Ram was appointed by the NCDC Ltd Ranchi in the year 1964. He met an accident on 24-7-72. At that time, there was no CKKMU Union and therefore admittedly late Chauth Ram could not be member of the Union. The said Union has no locus standi to raise dispute of the son of Chauth Ram. The further case of the management is that Chauth Ram died on 24-7-72 and there was no provision for providing employment to the dependent of the deceased workman at that time. The demand of the applicant is not tenable without any rule/regulation. Admittedly the provision for grant of employment to the dependent of the deceased workman or medically unfit workman was incorporated in NCWA-II which came into force w.e.f. 1-1-1979. The said provision was not applicable to the dependent of the deceased Chauth Ram. After the death of Chauth Ram, the management paid all dues in time and compensation to the death of deceased workman as per Compensation Act. Under the circumstances, it is submitted that the claim of Shri Ashok Kumar is unjustified and is liable to be rejected.

4. On the basis of the pleadings of the parties, the following issues are framed for adjudication.

I. Whether the action of the management in not providing employment to the dependent of Late Chauth Ram who died in mine on 24-7-72 is justified?

- II. To what relief Shri Ashok Kumar, the dependent is entitled to?**

5. Issue No. I

On the basis of the pleadings of the parties, the following facts have been admitted-

1. Late Chauth Ram was employee of NCDC Ltd. who died in an accident in mine on 24-7-72.
2. The NCDC Ltd. subsequently merged in Coal India Ltd. of SECL having its headquarter at Bilaspur.
3. There was no provision of the employment of the dependent of the deceased workman on compassionate ground at the time of death of Chauth Ram i.e. on 24-7-1972.
4. The provision for employment of the dependent of the deceased workman was introduced for the first time in NCWA-II which came into force w.e.f. 1-1-1979.
5. The applicant Ashok Kumar was son of Late Chauth Ram and was minor at the time of death of his father.
6. The wife of Chauth Ram did not raise any claim of employment of the dependent of the deceased workman at the time of death of Late Chauth Ram with the NCDC Ltd.
7. The admitted pleadings of the parties itself shows that there was no provision of employment of the dependent at the time of death of Late Chauth Ram and the provision was introduced by NCWA-II w.e.f. 1-1-1979 after nationalization of Coalmines. This itself shows that the provision of NCWA-II is not applicable to Shri Ashok Kumar.
8. The Union has adduced oral and documentary evidence in the case. The Union Witness Shri R.H. Singh was Deputy Personnel Manager of SECL. He has stated that from 85 to 96, he was in Banki Colliery. He has stated

that a list was prepared of the workmen who died prior to 1979 in accident and the name of Shri Chauth Ram was in the list. Out of them, few persons were given employment. Again a letter was sent of those whose names were missed in the list. He has further stated that the son Sahettar Singh of Late Sheosharan was given employment. In cross-examination, he has admitted that the provision for giving employment to dependent of the deceased workman was introduced on 1-1-1979. Chauthram died in 1972 thereafter the coalmines were nationalized. He has stated that the wife of Late Chauth Ram gave certificate of Tahsildar that Ashok Kumar is son of late Chauth Ram. His evidence shows that there was no provision in the year 1972 for appointment of the dependent on compassionate ground when Chauth Ram, died in accident. However his evidence further shows that the employment were given to the dependents of the deceased workman subsequently who died prior to 1-1-1979 and the provision of compassionate appointment appears to have been relaxed with retrospective effect.

9. Another Union witness is Shri Ram Bilas who is General Secretary of the union. He has supported the case of Shri Ashok Kumar. He has stated that before NCWA-II there was custom or traditional practice to provide employment to the dependent on the death of the workman. He has cited certain examples to corroborate his contention. He has stated that the custom or traditional practice of NCDC-Ltd. was included in NCWA-II of compassionate appointment in all collieries. He has stated that those dependents who were minor at the time of death of workmen, were given employment after attaining the age of majority. He has cited examples in his evidence that the workman Subran died on 2-11-1974 and his son Sahettar was appointed on compassionate ground on 1-8-90. The workman Munnuswami died on 20-4-75 and his son Jaishanker was given employment on attaining majority on 30-9-89 so on. He has stated that Chauth Ram died in Mine's accident on 24-7-72 and his son Ashok Kumar applied for employment on compassionate ground and Deputy General Manager recommended his case on the basis of above similarly situated cases but it was lingered for one reason or the other. He has further stated in his evidence that the Union raised the issue before the Assistant Labour Commissioner (Central) Bilaspur (in short ALC(C) Bilaspur which ended in failure report. In cross-examination, the management has tried to take a new plea which is beyond the pleading of the management in his Written Statement that the brother Shri Nanki of Late Chauth Ram was given employment on compassionate ground. Though the witness has denied this fact. However this plea is not tenable as it is beyond the pleading of the management. There is nothing in his cross-examination to disbelieve the evidence of this witness. His evidence clearly establishes that the management had provided employment on compassionate ground to other dependents of the

deceased workmen after NCWA-II i.e. 1-1-1979 who died prior to 1-1-1979.

10. The Union has adduced documentary evidence as well. Exhibit W/1 is the note sheet dated 16-11-96 of Deputy General Manager, Banki and is proved by the witness Shri R.H.Singh, Deputy Personnel Manager. This note sheet goes to show that the Deputy General Manager recommended the case of Shri Ashok Kumar to General Manager, Korba Area for dependent employment citing examples of others dependent appointments. The note sheet further shows that Late Subran, Ex. Timber Mistry died in accident on 2-11-1974 and his son Shri Shahettar Singh was given appointment on 1-8-90. Similarly Late K.Munnaswami Ex. Timber Mistry died in accident on 20-4-75 and his son Jai Shanker was given appointment on 30-9-89 and Late Duttikrishna died accident on 13-5-1972 and his son Jagmohan was given appointment on 8-8-89. This clearly shows that the case of Shri Ashok Kumar is also on the same footing. There is no reasonable pleading of the management as to why he has been denied the same treatment by the management. It shows that there is apparent discrimination in his case.

11. Exhibit W/12 is another note sheet whereby the Deputy General Manager submitted to the General Manager, Korba Area. This is also proved by Shri R.H.Singh. This note sheet shows the same examples of discriminatory approach with Ashok Kumar. Exhibit W/3 is the representation for appointment on compassionate ground whose husband died in accident. Exhibit W/15 is the appointment letter of Sahettar Singh S/o Late Subran. This document is proved by the witness Shri R.H.Singh. This is filed to show that he was appointed on 1-8-90. The note sheet (Exhibit W/1) shows that his father died in accident on 2-11-1974 prior to NCWA-II and his son was considered for appointment after NCWA-II and was appointed on 1-8-90. Exhibit W/6 is the Service Register of Nani Dau. It is also proved by Shri R.H.Singh. This is filed to show that his service does not disclose that he was appointed on compassionate ground on the death of his brother, Chauth Ram. However this plea was not taken by the management in his Written Statement.

12. Exhibit W/7 to W/14 are the documents filed by the Union and are admitted by the management by giving reply vide order dated 18-3-98. Exhibit W/17 is the forwarding letter dated 12-11-94 along with note sheet of Deputy Chief Personnel Manager, Korba. This is filed to show that note sheet was forwarded where by it was recommended to consider the compassionate appointment of Ashok Kumar in view of other similar cases were considered for appointment. This letter is evident that in other similar cases the dependents were appointed by the management on compassionate ground when the workman died in mine accident.

13. Exhibit W/18 is the letter by the Secretary, CKKMU Banki to ALC, Bilaspur for fixing another date for conciliation proceeding. Exhibit W/19 is the failure report

to the Ministry by ALC(C), Bilaspur regarding employment of Ashok Kumar, S/o Late Chauth Ram. Exhibit W/10 is the appointment letter dated 1-8-90 of Sahettar Singh S/o Late Subran. Exhibit W/15 is the same document which is proved by the union witness. The relevancy of the document has already been discussed earlier. Exhibit W/11 is the letter dated 2-9-78 of Sub Area Manager to Smt. Amna Bee. This is filed to show that her husband Late M. Israil died on 1-6-78 in road accident and she was denied employment as before 1-1-79 ladies were not given employment on the death of their husband. This letter further shows that the management had directed to apply for employment for her son. Exhibit W/12 is the minutes of the meeting held on 8-3-81 between the management and the office bearer of the Union. This is filed to show that in item Nos. 24 and 25 of the minutes, it was demanded by the Union that Shri Subran Timber Mistry died on 2-11-74 due to accident in mine. Late Shri K.C. Yadav and others died in Truck accident on 11-12-1978 and their dependents be given employment. It appears that the management agreed in principle and their cases were referred to Headquarters for compassionate appointment. Exhibit W/13 is the office order dated 12-2-1982. This shows that the wife of Late K.C. Yadav, Smt. Fuleshwari Devi and others were given employment by the management. This shows that these workmen died before NCWA-II and were given employment to the dependents after NCWA-II i.e. after 1-1-1979. Exhibit W/14 is the copy of affidavit of one Dhanno Devi. This is filed to show that her husband died on 11-12-78 and she claimed dependent employment on the ground of custom and traditional practices. She was given employment vide office order dated 12/13-2-1982 (Exhibit W/13). Thus the documentary evidence clearly proves that in the similarly situated cases, other dependents of the deceased workmen were given employment on compassionate ground. This shows that the action of the management is not justified in not providing employment to Shri Ashok Kumar S/o Late Chauth Ram rather it is discriminatory with other cases.

14. On the other hand, the management has adduced oral evidence in the case. The management witness Shri A.S.Adhikari is presently posted at Banki Sub Area as Personnel Manager. He has come to support the case of the management. He has stated the admitted fact that Shri Chauth Ram died in a mine accident on 24-7-72 and the scheme of dependent was introduced in the year 1979. He has further stated that the non-applicant is not aware that Chauthram had left one son viz. Shri Ashok Kumar nor any record to that effect is furnished to the non-applicant by Chauthram. This fact is beyond the pleading of the management and appears to be after thought. The documentary evidence as has been discussed above clearly shows that the management had recommended his case for employment on compassionate ground as dependent of Shri Chauthram. Exhibit W/7 which is admitted by the management, shows that Dy. General manager

recommended his case with copy of order issued by the Welfare Commissioner and copy of Certificate issued by the Naib Tahsildar declaring family members of Late Chauthram. Moreover the pleading in the Written Statement also shows that the management had considered Ashok Kumar as a son of late Chauth Ram. This witness has also for the first time stated a new fact that one Nanki Dau, whose affidavit is filed in court, has stated that he was appointed in place of his elder brother Chauth Ram. Nanki Dau has not appeared in court for cross-examination as such his statement regarding his manner of appointment is not admissible. Moreover there is no such plea of the management and therefore the evidence of Shri A.S. Adhikari is not reliable.

15. Another management witness Shri B. Bannerjee is Office Superintendent in Banki colliery. He has also stated in his evidence about the admitted fact. He has also admitted Exhibit W/1 which is the recommendation for considering the appointment of Ashok Kumar on compassionate ground. He has stated that few employees went on Picnic on 11-11-78 and few among them died in accident. The dependents were given employment. This shows that he had supported the case of the Union that those employees died before the provision of NCWA-II, their dependents were given employment subsequently. In cross-examination, he has stated that he cannot say that Nanki Dau was appointed on the basis of dependent employment. Thus evidence of both parties, as has been discussed, clearly shows that the action of the management in not providing employment to Shri Ashok Kumar as dependent of Late Chauth Ram is not justified.

16. The learned counsel for the management argued that admittedly Late Chauthram was appointed in the year 1964 by NCDC Ltd., Ranchi and he died in accident on 24-7-72. It is submitted that there was no Union in the name of CKKMU in existence and therefore Late Chauthram could not be a member of the CKKMS. It is submitted that the Union cannot raise dispute of a person who was not a member of the Union and the Union has no locus standi to raise the dispute.

17. Before discussing the issue raised by the learned counsel for the management, it is proper to reproduce the provision of the law. Section 36(1)(C) of the Industrial Dispute Act, 1947 runs as follows—

"Section 36-

- (1) A workman who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by—
- (c) where the worker is not a member of any trade union, by any member of the executive or other office bearer of any trade union connected with, or by any other workman employed in, the industry in which the worker is employed and authorized in such manner as may be prescribed;"

In the instance case, General Secretary, SKKMU is party and is recognised by the management in which NCDC Ltd. was subsequently merged. It is also clear from the evidence that the CKKMU is raising dispute of Ashok Kumar S/o Late Chauth Ram from the very initial stage with the management without raising any objection. Impliedly this itself shows that the Union was authorized to raise dispute and there is no illegality in raising the dispute by the Union of Ashok Kumar.

18. Considering the discussion made above, I find that the action of the management in not providing the employment to Ashok Kumar S/o Late Chauth Ram is unjustified and discriminatory. This issue, thus, decided in favour of the Union and against the management.

19. Issue No. II

It is evident that Shri Ashok Kumar s/o Late Chauth Ram is entitled to be appointed in the manner as other similarly situated dependents of the deceased workmen were appointed as has been discussed above. The management is directed to provide employment to Shri Ashok Kumar, dependent of Late Chauth Ram within two months from the date of award.

In case Ashok Kumar has exceeded the maximum age limit, the management is directed to relax his maximum age limit as an individual case. Accordingly the reference is answered.

20. In the result, considering the peculiar circumstances of the case the award is passed with cost of Rs. 10,000 (Rupees Ten Thousand only) to be paid by the management.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 3 जुलाई, 2012

का.आ. 2468.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.पी.सी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, मुख्य के पंचाट (संवर्भ संघ्या 12/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-7-2012 को प्राप्त हुआ था।

[सं. एल-42012/111-114/2002-आई आर (सी-II)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 3rd July, 2012

S.O. 2468.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12/2002) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of EEPC and their workmen, which was received by the Central Government on 3-7-2012.

[No. L-42012/111-114/2002-IR (C-II)]

AJEEET KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, MUMBAI**

JUSTICE GS. SARRAF

Presiding Officer

REFERENCE NO. CGIT-1/12 OF 2002

Employers in relation to the management of
Engineering Export Promotion Council

And

Their workmen

Appearances:

For the Management	:	Shri Nerlekar, Adv.
For the workmen	:	Shri Vinay Menon, Adv.
State	:	Maharashtra

Mumbai, 7th May, 2012.

AWARD

This is a reference made by the Central Government in exercise of its powers under clause (d) of sub section (i) of Section 10 of the Industrial Disputes Act 1947 (hereinafter referred to as the 'Act'). The terms of reference given in the schedule are as follows:

"Whether the action of the management of Engineering Export Promotion Council, Mumbai in terminating the services of Sh. Radhakrishnan N. Pillai, Smt. Meenakshi Patel, Sh. Ramesh B. Sawant and Sh. Haridas Kuckian w.e.f. 2-5-1994 is legal and justified? If not to what relief they are entitled to?"

According to the statement of claim the workmen were in the employment of Engineering Export Promotion Council (hereinafter referred to as the Council) for over two to six years but they were not issued appointment letters and they were given only identity cards. When the workmen reached the office of the Council on 2-5-1994 one of the Managers did not allow them to enter the office and told them that their services stood terminated with immediate effect. The workmen had put in continuous service of 240 days immediately prior to their termination. Thus their services were terminated by way of retrenchment in violation of Section 25-F of the Act. The workmen have, therefore, prayed that they be reinstated with continuity of service and full back wages.

The Council has filed written statement wherein it has stated that none of the workmen at any point of time was employed by the Council and thus there was no employer-employee relationship between them. According to the written statement the Ministry of

Commerce, Government of India set up the Council in the year 1955 with a view to promote export of engineering goods and in order to earn foreign exchange for the country. The Council was incorporated as a Company limited by guarantee under the provisions of Indian Companies Act on 21-9-1955. The Company has its head office at Kolkata and four other regional offices are located in Mumbai, Delhi, Kolkata and Chennai. The Ministry introduced International Price Reimbursement Scheme (IPRS) to assist Indian Engineering Exporters. The object was to enable Indian Engineering Exporters to get reimbursement of difference of price in domestic and international steel price consumed in the manufacture of exported items. The Ministry allocated IPRS to the Council and to the Director General of Foreign Trade for processing applications and reimburse the price difference. The IPRS required processing of applications, audit of applications and other accounting work which was a highly specialized work and could only be performed by a qualified Chartered Accountant. Accordingly the Council engaged a firm of Chartered Accountants, namely H. Gambhir and Company for the work of verification, processing and finalisation of IPRS applications. The scheme was, however, abolished in March 1994. It is possible that the workmen might have worked for H. Gambhir and Company for some time during the pendency of IPRS. The firm of Chartered Accountants had been provided a certain number of identity cards for being given to their employees. It is possible that the workmen came to possess the identity cards in the above circumstances. The World Trade Centre building where the Council has its office also houses several Government and Non-Government organisations such as Reserve Bank of India, Exim Bank, Nuclear Power Corporation and financial institutions like Unit Trust of India and several Public Sector Undertakings. Apart from the employees of the above organisations even vendors, tiffin carriers, milk man, tea vendors and staff of the contractors engaged in the building are required to possess a valid identity card. The identity card does not in any way confer the status of an employee on the person holding the card. None of the four workmen could have been employed by the Council without the express sanction or permission of the Govt. of India. According to the Council the reference is thoroughly misconceived and deserves to be rejected.

Following issues have been framed:

- (1) Whether the second party workmen prove that they were in the employment of the first party?
- (2) Whether the second party workmen prove that they are entitled to any reliefs from the first party?

The workman Smt. Meenakshi Patel has not filed her affidavit and has not come in the witness box. The

workmen Ramesh Sawant, Haridas Lokaya Kuckian and Radhakrishnan N. Pillai have filed their affidavits and they have been cross examined by learned counsel of the Council. The Council has filed affidavit of Mrs. Sudha, Satish Kubal, Asstt. Regional Manager and she has been cross-examined by learned counsel for the workmen.

Heard rival submissions.

ISSUE NO.1:

The workman Ramesh Sawant has stated in cross examination :

"No appointment letter was issued to us. No salary slip was issued to us by the Company. It is correct that our names were not on the muster roll of the Company. I did not move any application for issuing of appointment letter and recording the name on the muster roll.

The workman Radhakrishnan N. Pillai has stated in his cross-examination:

"I was not issued any appointment letter. I was appointed by Mrs. Bapsi Mullan Firoze who was office-in-charge. I cannot say that Mrs. Firoze had no authority to appoint any one including me..... I do not have any voucher or salary slip issued by the Company. My name was not there in the muster roll of the Company. I did not give any application in writing for recording my attendance on the muster roll or for issue of salary slip."

The workman Haridas L.Kukien has stated in his cross-examination that :

"I do not have any salary slip or voucher to show payment of wages by EEPCL. The Company maintained the muster. My name was not there in the muster"

The council is a Govt. of India Company which is governed by rules and regulations. There is no appointment letter and the names of the workmen are not there in the muster roll. There is no salary slip or voucher to show that any wages were ever paid to the workmen. There is absolutely nothing on the record to support the claim of the workmen that they were in the employment of the Council. The identity cards cannot and do not establish the relationship of employer and employee between the workmen and the Council. Therefore, I have no doubt that the claim of the workmen is entirely false and frivolous.

Issue no.1 is decided against the workmen and in favour of the council.

ISSUE NO. 2 :

In view of the decision on Issue no. 1, Issue no. 2 is also decided against the workmen and as such the workmen are not entitled to any relief.

Award is passed accordingly.

JUSTICE G. S. SARAF, Presiding Officer

नई दिल्ली, 3 जुलाई, 2012

का.आ. 2469.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आर० के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 243/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-7-2012 को प्राप्त हुआ था।

[सं. एल-22012/243/2003-आई आर (सी-II)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 3rd July, 2012

S.O. 2469.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 243/2003) of the Central Government Industrial Tribunal, Nagpur as shown in the Annexure in the Industrial Dispute between employers in relation to the management of Food Corporation of India, and their workmen, which was received by the Central Government on 3-7-2012.

[No. L-22012/243/2003-IR (C-II)]

AJEEET KUMAR, Section Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/243/2003 Date: 16-5-2012

Party No. 1:

The District Manager,
Food Corporation of India,
Ajni, Nagpur- 440015.

The Senior Regional Manager,
Food Corporation of India,
Mistry Bhawan, Dinshaw Wacha Road,
Churchgate, Mumbai- 400020.

Versus

Party No. 2:

The Secretary,
Rashtriya Mazdoor Sena, Hind Nagar
Ward no.2, Near Boudha Vihar,
Post: Wardha. Distt. Wardha (MS)

AWARD

(Dated: 16th May, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of FCI and their workman, Shri Vasantsingh L. Thakur, for adjudication, as per letter No. L-22012/243/2003-IR (CM-II) dated 8-12-2003, with the following schedule:-

"Whether the action of the management of Food Corporation of India, Nagpur (MS) in terminating the services of Shri Vasantsingh L. Thakur, Security Guard w.e.f. 14-3-1999 is legal & justified ? If not, to what relief the concerned workman is entitled ?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the Union, "Rashtriya Mazdoor Sena", ("the union" in short) filed the statement of claim on behalf of the workman, Shri Vasantsingh Thakur, (the workman" in short) and the management of Food Corporation of India, ("Party No. 1" in short) filed its written statement.

The case of the workman as projected in the statement of claim is that he was initially engaged as a security guard in Food Corporation of India, ("FCI" in short), Wardha depot through a contractor on 12-8-1997 and he was in continuous service till 14-3-1999, without any break and he had completed more than 240 days of work in each year and all of a sudden, party no. 1 illegally and unlawfully terminated his services orally on 14-3-1999 and before termination of his services, neither one month's notice nor one month's pay in lieu of notice nor retrenchment compensation was given to him by party no. 1, as required under Section 25-F of the Act and after termination of his services, fresh hand had been engaged in his place by the party no. 1, violating the provisions of Section 25-H of the Act and the work of security guard is of a perennial nature and on the date of termination of his services, ample work was available with party no.1 and homeguards and police personnel were engaged by the party no. 1 in his place and therefore, the termination of his services is ab-initio void and the same is illegal and unlawful and he is entitled for reinstatement in service with continuity and full back wages. The further case of the workman is that though his engagement was through a contractor, such contract was made only on paper and after every two years, party no. 1 had changed the contractor on paper only and neither he himself nor any other security guard was actually disturbed from services and he was working under the direct control and supervision of party no.1. Prayer has been made for the reinstatement of the workman in service with continuity and full back wages.

3. The party no. 1 in its written statement has pleaded inter-alia that the workman was engaged by the contractor as a security guard at the FCI depot and the said contractor is a necessary party in this case and in his absence, the proceeding is not maintainable and the workman was never in its service and as the contract of the contractor came to an end, the services of the workman were terminated by the contractor and the original period of the contract given to the contractor for providing security services was 1998, which was extended as per the terms and conditions till March, 1999 and as such, there was no question of termination of the service of the workman by it or following the procedure of termination as provided under Section of 25-F of the Act and the workman had never completed 240 days of work in a year as alleged and it had no connection whatsoever with the workman and there was no master and servant relationship between it and the workman at any point of time and it has been exempted by the Central Government under Section 10 of the Contract Labour (Abolition and Regularisation) Act and there was also no violation of Section 25-H of the Act and the work of providing security guards was given to the Government agencies like police and homeguards and as such, the workman is not entitled to claim any relief and the workman had never worked under its direct supervision and control and it had no control over the appointment and service conditions of the workman, who was an employee of the security agency and in writ petition no. 1389/1999 and W.P. No. 6916/2000, the Hon'ble High Court Judicature of Bombay, Nagpur Bench, Nagpur have been pleased to hold that, "the termination of the workman by the contractor was a valid one" and its action was also valid one and as such, the decisions of the Hon'ble Court operate as res-judicata between the parties and this Tribunal has no jurisdiction to consider the legality of the judgment passed by the Hon'ble High Court and the workman is not entitled to any relief.

4. It is necessary to mention here that though the workman had filed his evidence on affidavit, subsequently, he did not appear in the court for his cross-examination. The workman remained absent on 21-9-2010 and thereafter. As the workman did not appear for his cross-examination, by order dated 23-6-2011, his evidence was expunged and evidence from his side was closed.

The party no. 1 filed the evidence of Shri Suresh N. Bokade on affidavit in support of its claims. The evidence of the said witness remained unchallenged, as none appeared on behalf of the workman to cross-examine him. Due to the continuous absence of the workman, order was passed to proceed with the case ex-parte against him on 10-4-2012.

5. It is well settled that when a workman raises a dispute challenging the validity of the termination of his services, it is imperative for him to file written statement

before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or to produce evidence, the dispute referred by the Government cannot be answered in his favour and he could not be entitled to any relief.

In this case also, the workman has failed to produce any evidence in support of his claim and as such, the reference cannot be answered in his favour and he is not entitled to any relief. Hence, it is ordered :—

ORDER

The action of the management of Food Corporation of India, Nagpur (MS) in terminating the services of Shri Vasantsingh L. Thakur, Security Guard w.e.f. 14-3-1999 is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 3 जुलाई, 2012

का.आ. 2470.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जेट एयरवेज (आई) लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.1, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी 1/75 का 2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-7-2012 को प्राप्त हुआ था।

[सं. एल-11012/63/2003-आई आर (सीएम-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 3rd July, 2012

S.O. 2470.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-I/75 of 2003) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of M/s. Jet Airways (I) Ltd. and their workmen, received by the Central Government on 3-7-2012.

[No. L-11012/63/2003-IR (CM-I)]

AJEEV KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

JUSTICE G. S. SARAF, Presiding Officer

Reference No. CGIT-I/75 of 2003

Parties:

Employers in relation to the management of Jet Airways

AND

Their Workman (Chandrashekhar)

Appearances:

For the Management : Shri Abhay Kulkarni, Adv.

For the Union : Shri A.P. Kulkarni, Adv.

State : Maharashtra

Mumbai, dated the 4th day of June, 2011.

AWARD PART-I

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 the Central Government has referred the following dispute for adjudication to this Tribunal.

“Whether the action of the management of Jet Airways (I) Ltd. Mumbai, in dismissing the services of Mr. Chandrashekhar I. Pattan with effect from 14-9-2002 is justified and legal? If not, to what relief is the workman entitled”?

The second party workmen Chandrashekhar Ishwar Pattan joined Jet Airways as Loader-cum-Cleaner at Santacruz Airport on 15-6-1993. A charge sheet was issued to him on 12-4-2000. According to the charge sheet the workman applied for concessional air passage (100% two tickets) as per the Company's policy in his own name as well as in the name of his mother Mrs. Sharda Pattan aged 55 years for Bom-Goa-Bom sector vide application dated 9-3-2000. The said application was approved and he was issued two tickets - one in his name and another in the name of his mother bearing nos. 589/4256/877/510/3 and 589/4256/877/509/4. On 15-3-2000 when the aircraft of the first party VT-JAW (9W-474) arrived from Goa the workman was found travelling on the flight along with a female aged around 22 years on the aforementioned tickets issued to him. When he was interrogated by the security officials he stated that he had taken his wife along with him to Goa instead of his mother in whose name the ticket was issued. An enquiry was held against the workman. The Enquiry Officer by report dt. 8-7-2000 found the workman guilty of dishonesty with the employer's business in as much as he intended to cheat the company by way of taking an unauthorized person on travel with him. He was also found guilty of the charge of commission of an act subversive of discipline. A copy of the enquiry report was furnished to the workman. The workman submitted his representation vide letter dt. 8-8-2000. The Disciplinary Authority by letter dt. 14-9-2000 dismissed the workman from the services of the company with immediate effect.

The workman has filed statement of claim wherein he has challenged the enquiry report and the punishment order on the following grounds:

- (i) The Company did not give him a list of documents and a list of witnesses along with charge sheet dt.12-4-2000.
- (ii) Specific clauses of the Standing Orders under which allegations of misconduct were levelled against him were not mentioned in the charge sheet.
- (iii) No explanation was called from the workman before fixing the date for enquiry.
- (iv) The Company appointed an advocate Shri. S. D. Paldesai as Enquiry Officer who was an outsider and, therefore, could not conduct enquiry against the workman.
- (v) The workman participated in the enquiry but without any defence counsel.
- (vi) The proceedings of the enquiry ought to have been recorded in Marathi as the workman did not know English.

According to the statement of claim the findings of the Enquiry Officer are absurd and perverse as the same are not supported by evidence. The findings are based on surmises, conjectures and suspicion. It has also been stated that the punishment of dismissal imposed against the workman is unduly harsh and shockingly disproportionate. The workman has, therefore, prayed that he be reinstated with full back wages and continuity of service w.e.f. 14-9-2000.

According to the written statement filed by Jet Airways the Enquiry Officer accorded full and fair opportunity to the workman to defend himself. The workman admitted that he understood the charge levelled against him. Opportunity was given to him to engage defence representative. The procedure to be adopted in the enquiry was explained to the workman in the language understood by him. The enquiry was conducted in Marathi language understood by the workman and with his express consent the proceedings were recorded in English for the sake of convenience. Copies of all documents relied upon by the management in support of the charges were furnished to him. According to the written statement it is fully established that the workman cheated the Company by availing free passage facility for a person who was not entitled to such facility. According to the written statement an act of impersonation is a serious enough misconduct to award the punishment of dismissal. It has been prayed that the reference be rejected with exemplary costs.

Following issues have been framed :

- (1) Whether the departmental enquiry held against the workman is in accordance with the principles of natural justice?
- (2) Whether the report and findings of the Enquiry Officer are perverse?

(3) Whether the action of the Management in dismissing the services of the workman with effect from 14-9-2000 is justified and legal ?

(4) To what relief the workman is entitled to?

The workman has filed his affidavit and he has been cross examined by learned counsel for the Jet Airways. Jet Airways has not adduce any oral evidence.

Heard learned counsel for the workman and learned counsel for the Jet Airways.

Issues nos. 1 and 2 are being decided as preliminary issues.

Issue no. 1 : Learned counsel for the second party workman has submitted that the departmental enquiry held against the workman is not in accordance with the principles of natural justice mainly on four grounds. First, a list of witnesses and a list of documents were not provided to the workman along with the charge sheet. Secondly, the workman was not asked to furnish any explanation before serving the charge sheet or before the commencement of the enquiry. Thirdly, an advocate, who was an outsider, was appointed Enquiry Officer whereas he was not competent to hold any enquiry against the workman. Fourthly, enquiry was conducted in English whereas the workman did not know English.

It is not alleged that any list of witnesses or list of documents was demanded by the workman and that request was refused. It is also not stated that any prejudice has been caused to the workman on account of this. There is no provision in the Model Standing Orders (Central) which requires an employer to furnish a list of witnesses and a list of documents along with the charge sheet. In these circumstances it cannot be said that any principle of natural justice was violated on ground of not furnishing a list of witnesses and a list of documents to the workman.

It is not correct to say that the workman was not asked to furnish any explanation before the commencement of the enquiry. As a matter of fact his statement was recorded on the very day on which he was found travelling with a woman who was not his mother. Therefore, on this ground also the enquiry report cannot be challenged.

It is not provided under the Model Standing Orders (Central) that who will be the Enquiry Officer. When no specific person is named in the Model Standing Orders (Central) to hold an enquiry then I fail to understand why an advocate cannot be appointed as an Enquiry Officer. Moreover, there is no allegation, much less any proof, that any prejudice has been caused to the workman on account of appointment of an advocate as the Enquiry Officer. The argument of learned counsel for the workman is, therefore, not tenable in this regard.

Clause 14(4)(bb) of the Model Standing Orders (Central) provides that the proceedings of the enquiry shall

be recorded in Hindi or in English or in the language of the State where the industrial establishment is located whichever is preferred by the workman. In this case the workman has not given any preference for any particular language. The workman has never objected the enquiry being held in English. The workman has never stated that he does not know English. The workman has filed an affidavit in this court which is in English and then he has been cross examined wherein he has given answers in English. In all these circumstances it cannot be argued that enquiry is vitiated because it has been held in English.

The above discussion makes it clear that the arguments of learned counsel for the workman are devoid of any force.

Issue no. 1 is, therefore, decided against the workman and in favour of the first party.

Issue no. 2 : The charge against the workman is that he had applied for concessional air passage (100% two tickets) as per Company's policy for himself and for his mother Sharada Pattan aged 55 years and in pursuance of his application two tickets were issued in the name of the workman and his mother whereas on 15-3-2000 he was found travelling on flight 9W-474 along with some female aged about 22 years. When the workman was interrogated by the security officials he stated that the female travelling with him was his wife. During the enquiry also he stated that he was travelling with his wife and that he forgot what relationship he mentioned in the application for concessional air passage. However, when he was cross examined here in this Tribunal he stated that on the day in question he was travelling with his mother. It is thus clear that the workman has made contradictory statements. The management examined Vinayak Kadam and Snehal N. Patil during the enquiry. On the basis of these two statements and on the basis of the admission of the workman himself the Enquiry Officer has found the workman guilty.

I am of the opinion that the findings of the Enquiry Officer are based on evidence and in no way the findings can be said to be perverse.

Issue no. 2 is, therefore, decided against the workman and in favour of the first party.

The reference will go on for hearing for Part-II Award for which 20th June, 2011 is fixed.

JUSTICE G. S. SARRAF, Presiding Officer

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 1, MUMBAI**

JUSTICE G. S. SARRAF, Presiding Officer

REFERENCE No. CGIT-1/75 OF 2003

Employers in relation to the management of Jet Airways

And

Their Workman (Chandrashekhar I Pattan)

Appearances:

For the management : Shri Abhay Kulkarni, Adv.

For the workman : Shri A.P. Kulkarni, Adv.

State : Maharashtra

Mumbai, dated the 11th day of May, 2012.

AWARD PART-II

This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of reference given in the schedule are as follows :

Whether the action of the management of Jet Airway (I) Ltd., Mumbai in dismissing the services of Mr. Chandrashekhar I Pattan with effect from 14-9-2002 is justified and legal ? If not to what relief is the workman entitled ?

It is not necessary to narrate the facts here as the facts in detail have been stated in Award Part-I.

Following are the issues:

(i) Whether the departmental enquiry held against the workman is in accordance with the principles of natural justice ?

(ii) Whether the report and findings of the Enquiry Officer are perverse ?

(iii) Whether the action of the management in dismissing the services of the workman with effect from 14-9-2000 is justified and legal ?

(iv) To what relief the workman is entitled to ?

Issues nos. 1 and 2 have been decided against the workmen and in favour of the first party.

Heard rival submissions of learned counsels for the parties on the remaining issues.

Issues No. 3 The charge against the second party workman, who joined Jet Airways (First Party) as loader-cum-cleaner, is that he had applied for concessional air passage (100% two tickets) as per first party's policy for himself and for his mother Sharda Pattan aged 55 years and in pursuance of his application two tickets were issued in the name of the workman and his mother whereas on 15-3-2000 he was found travelling on flight 9W-474 along with some female aged about 22 years. When the workman was interrogated by the security officials he stated that the female travelling with him was his wife. During the enquiry also he stated that he was travelling with his wife. However, when he was cross-examined here in this Tribunal he stated that on the day in question he was travelling with his mother. On account of these contradictory versions of the second party workman it is not clear that who was accompanying him on the flight.

This Tribunal has held in Award Part-I passed on 4-6-2011 that there was no violation of the principles of natural justice and that the findings of the Enquiry Officer were not perverse. If the enquiry is fair and proper then in the absence of any allegations of victimisation or unfair labour practise I am not inclined to interfere with the punishment imposed.

Considering all facts and circumstances including the security aspect of the matter I do not think that the punishment is shockingly disproportionate to the charge levelled against the second party workman so as to warrant interference by this Tribunal.

Issue no. 3 is, therefore, decided against the second party workman and in favour of the first party.

Issue no. 4 The second party workman is not entitled to any relief.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 4 जुलाई, 2012

का.आ. 2471.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार परिचम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए 853/2004, Ref. ITC 19/2003 Old) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-7-2012 को प्राप्त हुआ था।

[सं. एल-41012/27/2003-आई आर (बी-1)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 4th July, 2012

S.O. 2471.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.CGIT-A-853/2004, Ref. ITC 19/2003 Old) of the Central Government Industrial Tribunal-cum-Labour Court Ahmedabad (Gujarat) as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 4-7-2012.

[No. L-41012/27/2003-IR(B-1)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : BINAY KUMAR SINHA, Presiding Officer,
CGIT-cum-Labour Court,
Ahmedabad, Dated 23rd May. 2012

Reference: CGIT A of 853/2004

Reference: ITC. 19/2003 (Old)

The Divisional Manager,
Western Railway, Pratap Nagar,
Baroda.

...First Party

And their workman

Smt. Jyoti Milind Vaidya,
203, Prem Smriti Apartment,
R.V. Desai Road, Madhuvan Society,
Bank of Baroda's Gali,
Baroda-390004.

...Second Party

For the first Party :- Shri Vilas J. Goswami, Advocate

For the second party:- Shri J.K. Ved, Advocate

AWARD

The Central Government/Ministry of Labour by its order No. L-41012/27/2003 (IR (B-1)) New Delhi dated 27-5-2003 in exercise of the powers conferred by clause (d) of sub-section 1 and sub-section 2 (A) of Section of the Industrial Dispute Act, 1947 referred the dispute existing between the employer in relation to the management of Western Railway, Baroda and their workman for adjudication to the Industrial Tribunal, Baroda by formulating the terms of reference under the schedule as follows :-

“Whether the action of the management of Western Railway, Baroda denying employment to Smt. Jyoti Milind Vaidya on the ground she is possessing less percentage of disablement as prescribed yardstick and depriving from employment is justified ? If not, what relief Smt. Jyoti Milind Vaidya is entitled to ?”

(2) The parties to the dispute consequent upon notice appeared and filed respective pleadings.

(3) The case of the workman as per statement of claim at Ext. 6 is that the since birth her hearing capacity was low even then she completed her B.com degree in the year 1985 and she got registered her name with the employment exchange and got registered her name for employment as a clerk and the employment exchange recommended her name, for employment as a Junior Clerk in reserve quota for handicapped to the first party (western railway) Baroda. The first party had taken her written as well as oral examination and issued a appointment letter No.ED/NG/J/242 dated 22-9-1992. Then she presented herself for resuming duties on 12-10-1992 at the office of the first party but she was not permitted to resume duty and was asked to appear before the Chief Medical Officer, Mumbai for medical examination. She appeared at Mumbai for medical examination. Thereafter the first party informed her on 22-10-1993 vide letter that her hearing capacity being low so she cannot be engage in employment. Further case

is that the first party in the letter had not shown as to how much minimum hearing impairment of hearing capacity is low for making selection. Further case is that in the memorandum of her appointment dated 14-9-1992 there is mention of appointment of another hearing handicapped as Junior Clerk name Ravindra Murlidhar Pagare in quota of hearing handicapped Person the said Ravindra Murlidhar Pagare had less than 90 DV hearing senility and therefore the first party had not given him employment but said Ravindra Murlidhar Pagare had challenged the Railway Administration's said decision before the CAT bench vide O.A. No. 482/1993 and Hon'ble Bench of the CAT reversed the Railway Administration's decision dated 15-2-1995 and ordered for his employment and then the administration of the first party appointed the said Ravindra Murlidhar Pagare as a junior clerk. Further case is that the Railway Administration vide letter No. EB/890/9 (P No. 3) dated 14-9-1992 had issued appointment to the second party along with other 14 candidates were given appointment and none of them has been absorbed in service and the Railway Administration refused to give appointment on the same reason that the capacity of the workmen is low as per rule. Further case is that if all the 15 workers including workman was handicapped then administration of Railway should not call to them written as well as oral test but once the Railway administration took their written and oral test and issued appointment orders, the act of not absorbing them in railway services is an act of playing cruel joke with them. Further case is that the Railway administration is state and they are legally bound to treat public persons in judicious manner. Further case is that the second party is a female coming from the poor family was not knowing provision of law and so the industrial Dispute could not be raised after refusal of appointment but after knowing about the rule she raised Industrial Dispute and on failure of conciliation the Appropriate Government has referred the dispute for adjudication. The workman second party sought for the relief for her absorption on the post of Junior Clerk and also for directing the Railway Administration to pay the arrears of wages payable to the Junior Clerk with 12 % interest till the date of her absorption in service with cost of the case and to any other relief to which she may be found entitled.

(4) The case of the first party as per w.s. at Ext. 4 pleading inter-alia is that the reference is not maintainable and the second party workman has no cause of action, this tribunal has not jurisdiction to adjudicate upon this reference. The first party have denied the allegations made against the Railway Administration and stated that the second party has to strict prove of the allegations/facts so alleged. It is the case of the first party that Jyoti Milind Vaidya second party workman was offered an opportunity to join railway service subject to her passing medical examination under the existing rules of the railway and subject to medical test etc. the workman was sent for medical

examination as per rules but she was declared unfit for appointment for railway service in handicapped quota by Senior Divisional Medical Officer, Baroda vide medical certificate Note 290099 dated 28-9-1992 8-10-1992. Chief Medical Superintendent, Baroda had also informed office that Smt. Jyoti Milind Vaidya could not be found fit for Railway service as candidate of handicapped quota for deaf because standards laid down for deaf is more than 90 DB whereas in the certificate produced by Jyotiben M. Vaidya is hearing less assessed at 75 DB vide No. MD-216/2 dated 7-10-1992. Even after 14-10-1992 her case was referred to CMO-CCG vide letter dated 12-04-1993 and the CMO CCG again sent letter asking Smt. Jyotiben N. Vaidya to furnish Audiometry report vide letter dated 12-5-1993. But she had been found medically unsuitable (unfit) for railway service and accordingly she was informed vide letter 242 dated 22-10-1995. Further contention is that as regards the case of Mr. Pagare he had been taken on duty after he had been declared fit by Sr. D.M.O. Pratapnager, Baroda vide medical certificate No. 234551 dated 27-2-1997. Further case is that the case of Mrs. Jyoti was re-examined by Sr. D.M.O. (ENT) J.R. Hospital, Mumbai (Central) and Chief Medical Officer CCG had given order that as per the criteria Mrs. Jyoti M. Vaidya cannot be considered for appointment as she does not fulfil the condition for handicapped quota. Further case is that the second party Smt. Jyoti M. Vaidya was never in Railway service so she is not entitled for any payment and any relief. On these scores prayer has been made to reject the reference with cost.

(5) In view of the rival contention of the parties as per respective pleadings the following issues are taken up for determinations.

ISSUES

- (I) Whether the reference is maintainable?
- (II) Has the second party Mrs. Jyoti M. Vaidya got valid cause of action in this case?
- (III) Whether the action of the management of western railway, Baroda denying the employment to the second party on the ground she is processing less percentage of disablement as prescribed yardstick and depriving from employment is just or not?
- (IV) Whether second party workman is entitled to the relief? If so to what extent?

FINDINGS

(6) ISSUE No. III

The second party workman in support of her statement of claim also gave oral deposition at Ext.9 supporting that she was suffering from disability by hearing impaired and that her name was enrolled with employment exchange for gaining job and that employment exchange

authorities had recommended her name for appointment as a junior clerk in handicapped quota and the first party (western railway) had accepted the said recommendation and took her written test as well she was subjected to oral test/interview and thereafter vide letter 22-9-1992 gave her appointment order. Further evidence is that she submitted joining report on 12-10-1992 in response to appointment letter but she was not allowed to perform duty but instead of she was sent for medical checkup. Further evidence is that though she had been recruited on hearing disability but in the garb of medical test she was disqualified and she was deprived of the job as junior clerk in the Railway Department. On the other hand on behalf of the first party no oral evidence of any witness has been lead.

(7) The first party has supported his stand as to disqualification of the second party Jyoti Milind Vaidya because she was not found 90 D.B. loss of hearing on repeated examination by the Chief Medical Superintendent, Baroda and also by Chief Medical Officer, Head Quarter Office, Churchgate, Mumbai. And since as per Railway Board's letter 18/10/1-1978 the standard laid down for deaf is loss of 90 D.B. hearing in better ear but the certificate produced by the second party was not fit into the criteria and so she was not found fit as a candidate of handicapped quota for deaf. The first party has relied upon Divisional Office, Baroda letter dated 7-10-1992 marked Annexure-A/1 and letter ED/ANG/J/242 dated 12-4-1992 regarding appeal against the CMC BRC certificate received from Mrs. Jyoti R. Vaidya, marked Annexure-A/2 and letter of Chief Medical Officer from Head Quarter Office, Churchgate, Mumbai, No. HOMD-216/32 dated 12-5-1993 marked as Annexure-A/3 and Divisional office, Baroda letter dated 12-5-1993, marked as Annexure A/4 and the copy of order passed by the Hon'ble Bench of CAT, Ahmedabad in O.A. No. 518/96 dated 7-8-2001 and another letter dated 06-09-1993 regarding the candidate (Jyoti Vaidya) not fulfilling the criteria of percentage of loss of hearing at Annexure A/7 and Divisional Office letter dated 22-10-1993, marked Annexure A/8. But the first party has not produced the copy of Railway Board's letter No. E (NG) III-77/RCT/ 54 dated 8/10/1-1978 in connection with standard laid down for deaf is loss of 90 D.B. hearing in better ear.

(8) On the other hand the second party has relied upon Ext. 23 which is letter No. EP/890/9 (PT III) memorandum of Divisional Office, Baroda dated 14-9-1992 through which GM (E) CCG vide letter under reference-confidential EC (R&T) 890/59/1 BRC dated 3-9-1992 had communicated the sanction of Competent Authority for the panel of 8 orthopedically handicapped and 7 hearing handicapped persons, which was sent to Head Quarter vide this office confidential D.O. No. Con. EP/890/9 dated 24-3-1992 and even No. dated 20-8-1992. Under Ext. 23 list of 8 O.H. (orthopedically handicapped) and 7 H.H. (hearing handicapped) persons was mention for recruitment of "c" group staff. In Ext. 23 in the second

category under heading hearing handicapped 7 candidates were sanctioned by the Competent Authority for recruitment and the name of the second party Jyoti is at serial No. 6 recommending her for the post of Junior clerk. It is also essential to mention that in the list of hearing handicapped candidates at serial No. 1 the name of Ravindra Murlidhar Pagare recommended for the post of Junior clerk is mentioned. It is not disputed that said Ravindra Murlidhar Pagare who had also been found unfit in medical examination was appointed to the post of junior clerk, in view of the order passed by the Bench of Hon'ble CAT, Ahmedabad in O.A. No. 482/1993 by decision dated 15-2-1995. From perusal of Ext. 23 it is nowhere mentioned that the candidates of O.H. and H.H. recruited in "c" group staff having with recommendation for their respective posts and also having sanction of competent authority have had to undergo further medical test regarding hearing loss or regarding loss of 90 D.B. loss of hearing as per the first party case. In the last part of Ext. 23, it has been incorporated that they: may therefore be offered appointment accordingly on the usual terms and conditions for appointment in the respective category in which they are to be appointed. As regards the verification of their character and antecedents in terms of letter dated 26-9-1983. Further it has been mentioned the date of appointment may pleased be advised to GM (E) CCG as soon as they are appointed. Ext. 24 is the letter of appointment dated 22-09-1992 of Jyoti M. Vaidya in the scale of Rs. 950-1500 (RP). From perusal of Ext. 24 it appears that condition 9 speaks that appointee should report to this office on or before 12-10-1992 failing which the order will be deemed as cancelled. Condition 11 further speaks that the appointment is subject to your passing the medical examination and verification, condition 10 laid down that appointee should communicate the acceptance in writing to the undersigned within 7 days of the date of receipt of the letter of appointment. It further notice on receipt of acceptance, a pass on first appointment over this railway should be issued in your favour. So on carefully examining Ext. 24 accept condition No. 10 the other contents in the letter of appointment are categorically speaking that it was an order of appointment. So such contention raised in the written statement by the first party that it was only offer of appointment and not an appointment does not appear to be acceptable. Ext. 25 is the joining report dated 12-10-1992 of the second party Jyoti Vaidya which is in response to condition No. 9 to report to the office on or before 12-10-1992 and through Ext. 25 it was requested to the Divisional Personnel Officer to accept the joining report accordingly but instead of acceptance of her joining, she was sent for medical examination. It may be noted that in course of appointment to the Government job the candidates are to undergo medical examination regarding physical fitness. It is evident that the second party workman with other H.H. had been recruited after due sanction of the authority, on the ground of hearing handicapped regarding percentage hearing handicapped

had already been submitted by the second party. According to the second party 50% hearing loss certificate had been submitted with the application for recruitment on handicapped quota as junior clerk and after going through that handicapped certificate okayed/cleared by the sanctioning authority for recruitment. So, again subjecting the second party Jyoti to undergo rigorous Audiometry test in the garb of hearing loss 90 D.B was not at all justified. More so, the said railway board's letter taking up the standard of hearing loss of 90 D.B has not been produced by the first party. Ext. 26 is the Baroda Divisional office letter dated 12-10-1993 questioning the appointment of Jyoti not fulfilling the criteria and so she was not considered for appointment. Ext. 27 is the certificate dated 27-3-1989 granted by Medical Officer of SSC Hospital, Baroda showing Jyoti suffering from neural deafness 50%. Ext. 28 is yet another certificate granted by Resident Medical Officer SSG Hospital Baroda dated 3-10-1992 (second party) Jyoti certifying that she is hearing handicapped due to bit moderate sensory and her disability is assessed at 75 D.B. on behalf of the second party yet another disability certificate dated 7-12-1992 has been produced which was also granted by Resident Medical Officer GHS CL division I SSG Hospital, Baroda under which she was found hearing handicapped due to bit SN deafness and parentage was given at 95%. Ext. 30 is the concession certificate issued to the second party Jyoti Vaidya meant for railway concession to totally deaf and dumb persons. Ext. 31 is the letter of appeal office Baroda dated 1-6-7-1993 addressed to the second party Jyoti asking her to attend Jagjivan Ram Railway Hospital for detailed examination by ENT specialist including Audiometry.

(9) The first party could not be able to rebut such evidence of the second party Jyoti supporting her statement of claim that the advertisement for recruitment to the H.H. nowhere prescribed the standard of impairment physical handicapped persons. It is also undisputed that the certificate of medical officer that the hearing capacity of the second party (Jyoti) was impaired more than 50% was attached along with application for appointment even then the competent authority of the first party considered her H.H. disability and thereafter the second party was called for the written test as well as viva voce test and on being successful in those tests, an order of appointment was sent. So when the competent authority had sanctioned for appointment of Jyoti Vaidya (second party) as Junior clerk in the category of hearing handicapped the medical officer of the first party was not justified in questioning about her hearing impairment taking the plea of 90 D.B. hearing loss. On making scrutiny of letter of appointment at Ext. 24 it has been found that it was an order of appointment and not offer of appointment as contended on behalf of the first party.

(10) The second party has relied upon the decision of the Bench of Hon'ble Central Administrative Tribunal

dated 15-5-1995 passed in O.A. No. 482/93 it has been marked Ext. 32. The petitioner of this O.A Mr. Ravindra Murlidhar Pagare whose name is at serial No.1 in Ext. 23 had preferred this O.A. against union of India and others challenging the order dated 21-10-1992 whereby his appointment as Junior clerk in the scale of Rs. 950-1500 vide letter of appointment dated 22-9-1992 was cancelled on the ground that his hearing loss was only 53%. The Hon'ble Bench of the CAT after thoroughly examining the materials on the record and submissions of the parties has been pleased to examine the question if the respondent (railway) were of the view that the applicant did not fulfill the condition for being declared physically handicapped and the order of appointment was issued what procedure was required to be adopted. In this connection the case law of Sarvakumar Jha and others V/s, State of Bihar and others, 1991 SC (L & S) 678 was discussed in which their Lordship held that ones appointment order was issued and the same was required to be cancelled, an opportunity of hearing should have been given to the appointee and since no such opportunity was afforded and the order detriment to the appointee was passed, it was without complying with the rules of natural justice. The learned counsel appearing for the first party could not submit convincingly that there was no requirement for giving an opportunity to the second party workman Mrs. Jyoti before rejecting her appointment. In the instant case the management of first party without giving an opportunity of hearing to the second party Jyoti Milind Vaidya, cancelled her appointment. Similar is the case of Mr. Ravindra M. Pagare who had not been given opportunity of hearing and his appointment was cancelled. The Hon'ble Bench of the CAT has held that the principle of natural justice was violated in the case of petitioner Ravindra M. Pagare and so the order of cancellation of appointment of Ravindra M. Pagare was quashed and he was directed to be appointed in the light of the appointment order dated 22-9-1992. Similar is the stand in the instant case that the second party was not given opportunity of hearing and her appointment was cancelled and so in the instant case too, the principle of natural justice has been violated by the first party. More so, in this case the second party had produced also hearing impairment certificate. Ext 28 and 29 which go to show about hearing loss of 75% and 95% DB respectively as per certificate dated 3-10-1992 and 7-12-1992 and so the second party was fulfilling the criteria of 90 DB on the basis of which her appointment was cancelled without giving opportunity of hearing her.

(11) On behalf of the second party, the case law of union of India and others V/s. Pritilata Nanda 2011 (1) Supreme Court cases (L & S) 777 has been relied upon where it has been held by their Lordship once candidate allowed to participate in selection process it was not opened to turn around and question the candidature on suspicious grounds. It has been held that denial of appointment is grave illegality. In support of such submission that

employment notice issued by the Railway Department inviting application from H.H. (hearing handicapped candidates) there was no mention about hearing loss of 90 DB. The first party could not be able to rebut such submission made on behalf of the second party. In this connection a case law has been relied upon by the second party reported in 1993 (20) Administrative Tribunal case 23. In the given case law medical examination regarding stammering was also a facts but not a disqualification for appointment as guard in railway.

(12) Upon consideration of the evidence and materials on the record as discussed above, I am of the considered view in holding that the action of management of Western Railway, Baroda denying the employment to the second party Smt. Jyoti on the ground she is possessing less percentage of disablement as prescribed yardstick and depriving from employment is not just and proper and so is fit to be set aside. This issue is accordingly decided against the first party and in favour of second party.

(13) ISSUE No. IV

In view of the findings given to issue no. 3 in the foregoing, I further find and hold that the second party workman is entitled for her appointment to the post of junior clerk as per letter of her appointment issued to her dated 22-9-1992 and the order of cancellation of appointment of the second party by the first party is hereby set aside.

(14) ISSUE No. I & II

In view of the findings given to issue no. III & IV in the foregoing, I further find and hold that the reference is maintainable and the second party Mrs. Jyoti M. Vaidya has got valid cause of action in this case.

This reference is allowed accordingly on contest.
No order as to any cost.

The first party is directed to give appointment to the second party in the light of appointment order dated 22-9-1992. The second party workman shall be entitled for the pay/wages from the date of joining in the service of the first party as Junior clerk. First party is directed to comply with the above direction within 60 days.

This is my award.

Let copies of the award be sent to the appropriate Government for publication.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 4 जुलाई, 2012

का.आ. 2472.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दी मीमान को-ऑपरेटीव बैंक लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 40/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-7-2012 को प्राप्त हुआ था।

को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-7-2012 को प्राप्त हुआ था।

[सं. एल-12012/217/2005-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 4th July, 2012

S.O. 2472.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.1/2006) of the Central Government Industrial Tribunal-cum-Labour Court No.1, Mumbai as shown in the Annexure in the Industrial Dispute between the management of The Memon Co-operative Bank Ltd. and their workmen, received by the Central Government on 4-7-2012.

[No. L-12012/217/2005-IR(B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, MUMBAI

Reference No. CGIT/1/2006

Date : 5-6-2012

Mr. Nabar, Adv. Present on behalf of the second party workman

None is present on behalf of the first party.

An application has been filed on behalf of the second party workman and it has been prayed that this reference be disposed of without adjudication on merits for want of jurisdiction with liberty to the second party workman to approach appropriate forum in accordance with law.

Heard.

The application is allowed. This Tribunal does not have jurisdiction to pass an award in this reference and, therefore, the reference stands disposed of without adjudication on merits and the second party workman will be at liberty to pursue the remedy before appropriate forum in accordance with law.

Sd./—Illegible
Presiding Officer

नई दिल्ली, 4 जुलाई, 2012

का.आ. 2473.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्ट कोस्ट रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या 40/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-7-2012 को प्राप्त हुआ था।

[सं. एल-41011/04/2011-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 4th July, 2012

S. O. 2473.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.40/2011) of the Central Government Industrial Tribunal -cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the management of East cost Railway and their workmen, received by the Central Government on 4-7-2012.

[No. L-41011/04/2011-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL— CUM-LABOUR COURT BHUBANESWAR

Present:

Shri J. Srivastava,
Presiding Officer, C.G. I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 40/2011

Date of Passing Order - 18th May, 2012

Between :

1. The Chief Commercial Manager,
East Coast Railway, Bhubaneswar, Orissa.

2. The Senior Deputy Commercial Manager,
East Coast Railway, Khurda Road, Jatni,
Dist. - Khurda (Orissa)

3. Senior Deputy Commercial Manager,
East Coast Railway, Visakhapatnam (A.P.)

...1st Party-Managements

(And)

Their workmen represented through the
General Secretary, East Coast Railway Shramik
Union, C-17F, Railvihar, Chandrasekharpur,
Bhubaneswar (Orissa).

...2nd Party-Union.

Appearances:

None. ... For the 1st Party
Managements.

None. ... For the 2nd Party-Union.

ORDER

The present reference with regard to an industrial dispute existing between the employers in relation to the management of East Coast Railway and their workmen was

received in this Tribunal vide letter No. L-41011/04/2011-IR (B-I), dated 24-8-2011 on 19-9-2011 of the Government of India in the Ministry of Labour.

2. The 2nd Party-Union was directed to file statement of claim along with list of documents and witnesses within fifteen days of receipt of order of the reference, but no statement of claim was filed within the stipulated time. Thereafter a notice was sent to the 2nd Party-Union through registered post directing it to file statement of claim by 24-11-2011, but on that date no body turned up on behalf of the 2nd Party-Union. An order for issue of fresh notice under registered post was again passed and accordingly a fresh notice under registered cover was issued to the 2nd Party-Union for 17-1-2012 for filing of statement of claim. On that date one person named Shri P. K. Patasani appeared on behalf of the 2nd Party-Union but he has not filed any authorization from the General Secretary of the Union nor moved any petition for time or with any such request. However the case was adjourned to 29-3-2012 for further orders. On that date none appeared on behalf of the parties and even the 2nd Party-Union has not filed any statement of claim. Thereafter a further date of 30-4-2012 was fixed for orders. On this day also the 2nd Party-Union has neither appeared nor filed any statement of claim. Thus this case came up for orders today before Lok Adalat.

3. From the facts narrated above it appears that the 2nd Party-Union is not at all interested in prosecuting its case. without statement of claim no further proceedings can take place and the dispute referred to this Tribunal Cannot be adjudicated upon. Hence this Tribunal is constrained to return the reference to the Government of India for taking necessary action at its end. I order accordingly and return the reference to the Government of India in the Ministry of Labour for taking necessary action at its end.

Dictated & Corrected by me.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 5 जुलाई, 2012

का.आ. 2474.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकारण नं. 1, धनबाद के पंचाट (आईडी संख्या 307/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-7-2012 को प्राप्त हुआ था।

[सं. एल-20012/182/2000 ऑई आर (सी 1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 5th July, 2012

S. O. 2474.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No.307/2000) of the Central Government Industrial Tribunal-cum Labour Court No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL, and their workman, which was received by the Central Government on 5-7-2012.

[No. L-20012/182/2000-IR (C-I)]

AJEET KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, AT DHANBAD**

**In the matter of a reference U/s. 10 (1) (d) (2A) of the
Industrial Disputes Act, 1947**

Reference No. 307 of 2000

Parties:

Employers in relation to the management of Block-II Area of M/s. B.C.C.Ltd.

AND

Their workman

PRESENT: Shri H.M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : None

For the Workman : Shri S. N. Goswami, Advocate.

Dated, the 21st June, 2012

AWARD

By Order No. L-20012/182/2000-IR (C-I) dated 18-10-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Block-II Area of M/s. BCCL Dhanbad to deny employment to Shri Raju Nonia, S/o Late Nageshwar Nonia on compassionate ground after the death of his Father under Clause 9-4-2 of NCWA is justified ? If not , to what relief is the concerned dependent son entitled ?"

2. The case of the concerned workman is that Nageshwar Nonia, General Mazdoor died on 18-4-85 while in service at Jamunia Open Cast Project under Block-II Area of M/s. BCCL. After the death of late Nageshwar Nonia, his widow wife Smt. Lolash Beldarin did not submit application immediately to the management for employment of her eldest son Raju Nonia under the provisions of

relevant NCWA as he was minor and her another son Sanjay Nonia was also younger to him. She also informed this position to the management. Smt. Lolash Beldarin, widow wife of late Nageshwar Nonia submitted application for employment of her elder son and elder dependent son, Raju Nonia of Late Nageshwar Nonia, her late husband to the management on 23-2-92 after Raju Nonia attained adult age and while submitting the application, she submitted all other duly filled in prescribed forms for the employment of Raju Nonia under the provision of NCWA. After receipt of her application for employment of Raju Nonia, the management did not communicate either acceptance or rejection of her case for employment of Raju Nonia. After 3 years the application for employment was rejected by the management vide letter dated 6/8-9-95. After receipt of communication of the management about rejection of the case of Raju Nonia, dependent son of late Nageshwar Nonia, request was made to the management to reconsider the case but that was also rejected by the management vide letter dated 25/27-3-97. Thereafter an industrial dispute was raised before A.L.C. (C), Dhanbad, which ultimately ended in failure and the present dispute has been referred for adjudication to this Hon'ble Tribunal.

The action of the management to deny employment of Raju Nonia S/o Late Nageshwar Nonia on compassionate ground after the death of his father under Cl. 9-4-2 of NCWA is not justified.

Under the facts and circumstances it has been prayed that the Hon'ble Tribunal be pleased to pass an award holding that the action of the management is not justified and Raju Nonia S/o. Late Nageshwar Nonia is entitled for employment on compassionate ground under clause 9-4-2 of NCWA.

3. The case of the management is that Nageshwar Nonia was an employee of JOCP of Block II area and he expired on 18-4-85 before attaining the age of superannuation. His wife, Smt. Lolash Beldarin was also a workman of that Block II OCP. At the time of death of Nageshwar Nonia, his wife was already in the employment and, as such, there was no compassionate ground to provide employment to the son of late Nageshwar Nonia. Raju Nonia demanded for his employment through the sponsoring union after a lapse of several years from the death of his father. It has been submitted that Raju Nonia was a minor at the time of the death of his father and he became dependent on the earnings of his mother who was in the employment of the company at the relevant time. There is no rule conferring right on the son of a deceased workman to get employment in a Public Sector Undertaking whenever he becomes a major on some ground or other. It has been submitted that as per the principles of law, compassionate employment is provided at the relevant time to save the family from economic hardship on account of sudden demise of bread earning member of the family. In

the instant case, there was no such need and there was no requirement for providing employment to any one as the wife of the deceased workman was already in the employment of the company and the concerned workman was a minor at the relevant time. Thus, the present claim is based on pre-supposition that vested right exists on the dependent of a workman to claim employment in a Public sector Undertaking under the provisions of NCWA.

Under the facts and circumstances it has been prayed that the Hon'ble Tribunal be pleased to hold that the concerned workman is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned workman produced WW-1, Raju Nonia himself.

The management produced MW-1, Prahalad Prasad.

6. Main argument advanced on behalf of the petitioner that his father, Nageshwar Nonia, died on 18-4-85 while working as General Mazdoor with the management. He had applied for employment on compassionate ground but the management refused it. It has also been argued that at the time of death of his father he was under-age so he could not apply. As per provision Clause 9.4.2 of NCWA Raju Nonia, dependent son of Late Nageshwar Nonia, is entitled for employment. But the violated the settlement/agreement of Clause 9.4.2 of NCWA, which the scheme for providing employment under social security is in vogue and operative and statutory force.

On the contrary the management stated that there is no rule conferring right on the son of a deceased workman to get employment in a Public Sector Undertaking whenever he becomes a major.

In this respect management's witness MW-1, Prahalad Prasad Ray, is material. He stated in cross-examination that I know that as per NCWA a dependent is given employment as per death case. There is no provision in NCWA that employment cannot be given to the dependent if there is any member who is in employment. He also stated that in NCWA there is no limitation for compassionate employment.

The statement of MW-1 shows that there is no time limit in NCWA for giving compassionate employment and there is no provision in NCWA that employment cannot be given to the dependent if there is any member who is in employment. So, the management cannot refuse employment to Raju Nonia, whose father Nageshwar Nonia died on 18-4-85 while in service, which has been admitted by the management.

7. In the result, I hold that the action of the management of Block-II Area of M/s. BCCL, Dhanbad, to deny employment to Shri Raju Nonia, S/o Late Nageshwar Nonia on compassionate ground after the death of his

father under clause 9.4.2 of NCWA is not justified. Consequently, Shri Raju Nonia, son of Late Nageshwar Nonia, is entitled employment on compassionate ground under NCWA. The management is directed to implement the Award within three months from the date of publication of this Award in the Gazette of India.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 5 जुलाई, 2012

का.आ. 2475.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार बी. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, धनबाद के पंचाट (आईडी संख्या 4/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-7-2012 को प्राप्त हुआ था।

[सं. एल-20012/153/2007-आई आर (सीएम-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 5th July, 2012

S. O. 2475.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 4/2008) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of Kusunda Area of M/s. BCCL, and their workman, which was received by the Central Government on 5-7-2012.

[No. L-20012/153/2007-IR (CM-I)]

AJEEAT KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I AT DHANBAD

In the matter of a reference U/s. 10 (1)(d)(2A) of the
Industrial Dispute Act, 1947

Reference No. 4 of 2008

Parties:

Employers in relation to the management of Kustore
Area of M/s. B.C.C.Ltd.

AND

Their workman

Present: Shri H. M. SINGH, Presiding Officer

Appearances :

For the Employers : Shri U. N. Lal, Advocate.

For the Workman : Shri R. R. Ram, Jt. General Secretary,
B. M. U.

State: Jharkhand

Industry : Coal

Dated, the 12th June, 2012

AWARD

By Order No. L -20012/153/2007-IR (CM-I) dated 21-2-2008 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Bhagatdih Colliery under Kustore Area of M/s. BCCL in dismissing the Services of Shri Satish Bouri, M/Loader, w.e.f. 19-3-2005 is justified and legal ? If not , to what relief is the concerned workman entitled ?”

2. The case of the concerned workman is that he was a permanent workman in Bhagatdih Colliery. He had been performing his duty punctually and sincerely and never charge-sheeted for any misconduct prior to dismissal. He had been absenting from his duty since 4-10-2004 to 8-1-2005 due to suffering from “Asthama”. It appears from his record that he absented himself from his duty only three months. After being fully cured from his illness, he represented himself before the authority concerned to resume his duty. In spite of allowing him to resume his duty, the management served him charge-sheet alleging over him for unauthorised absence from his duty vide letter No. 12301 dated 20-9-04. The concerned workman replied to the chargesheet which was not found satisfactory, and the management dismissed him with effect from 19-3-2005. The enquiry proceeding and report is not fair and proper. The dismissal of the concerned workman is illegal and unjustified, and he is entitled to be reinstated in service with full back wages.

Under the facts and circumstances, stated above, it has been prayed that the Hon'ble Tribunal be pleased pass an award by directing the management to reinstate him in service with full back wages.

3. The case of the management is that Satish Bouri having his P. No. 02346344 was working as miner/loader at East Bhagatdih Colliery of Kustore Area. He was absenting unauthorisedly w.e.f. 4-10-2004. The Disciplinary Authority had issued a change-sheet to the concerned workman as per provision of Certified Standing Order of the Company vide No. 1230 dt. 20/21-10-2004. The concerned workman did not submit his written explanation to the charge-sheet. The management appointed Sri A.K. Jha, Sr. Personnel Manager, East Bhagatdih Colliery as Enquiry Officer on 23/30-10-2004. The Enquiry Officer had issued notice of enquiry fixing the date of enquiry on 3-11-2004, but the concerned workman did not turn up. Another notice of enquiry was sent fixing the date on 22-11-2004 but the concerned workman did not come to attend the enquiry. A notice was also sent to his permanent address. But he did not turn up. Thereafter the Enquiry Officer had decided to

hold the enquiry ex-parte. In the meantime on 10-1-2005 the concerned workman had intimated that he could not appear in the enquiry due to his ailment. The Enquiry officer held ex-parte enquiry and he had found that the last three years attendance produced before him in the course of enquiry was not found satisfactory. The disciplinary Authority had imposed the penalty of dismissal from the service of the Company vide letter No. 479 dt. 18/19-3-2005.

Under such circumstances, it has been prayed that the Hon'ble Tribunal be pleased to hold that the action of the management in dismissing the service of the concerned workman w.e.f. 19-3-2005 is justified and the concerned workman is not entitled to any relief.

4. The enquiry was held to be fair and proper vide order dated 18-8-2011.

5.. The management produced documents which have been marked as Exts. M-1 to M-9.

6. Main argument advanced on behalf of the concerned workman is that no second show cause notice was given to him before dismissal. The order of dismissal was passed on 18/19-3-2005 to the concerned workman on the ground of absenteeism, but before dismissal no second opportunity was given to him and no second show cause notice was given to him, as per law laid down in Current Labour Report (SC) 1991 page 61, in which Hon'ble Supreme Court held that supply of a copy of the enquiry report along with recommendations, if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice.

If it has not been done the enquiry cannot be said to be fair and proper and the dismissal of the concerned workman can not be sustained on that basis.

The management argued that during the year 2002 his attendance was 61 days, in the year 2003 — 59 days and in 2004—88 days on which basis dismissal was passed.

He was not given second show cause notice before dismissal. Moreover, such punishment of dismissal is very harsh punishment. His increment should have been stopped or break in service should have been given before giving punishment of dismissal.

7. Considering the above facts and circumstances, I hold that the action of the management of Bhagatdih Colliery under Kustore Area of M/s. BCCL in dismissing the services of Shri Satish Bouri, M/Loader w.e.f. 19-3-2005 is not justified and legal. Hence, the concerned workman is entitled to be reinstated in service without any back wages. The management is directed to implement the Award within 30 days from the date of publication of the Award.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 5 जुलाई, 2012

का.आ. 2476—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण सं। धनबाद के पंचाट (संदर्भ संख्या 48/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-07-2012 को प्राप्त हुआ था।

[सं. एल-20012/99/2007-आई आर (सीएम-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 5th July, 2012

S.O. 2476—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 48/2007) of the Central Government Industrial Tribunal No. I, Dhanbad now as shown in the Annexure in the Industrial Dispute between the management of M/s. BCCL and their workman, which was received by the Central Government on 5-7-2012.

[No. L-20012/99/2007-IR (CM-I)]

AJEEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I AT DHANBAD

In the matter of a reference U/s. 10 (1) (d) (2A) of the Industrial Disputes Act, 1947

Reference No. 48 of 2007

Parties: Employers in relation to the management of Kusunda Area of M/s. B.C.C.L.

AND

Their workman

Present: Shri H.M. SINGH, Presiding Officer

Appearances

For the Employers : Shri U. N. Lal, Advocate

For the Workman : Shri D. Mukherjee, Advocate

State: Jharkhand Industry : Coal

Dated, the 20th June, 2012

AWARD

By Order No. L -20012/99/2007-IR (CM-I) dated 5-6-2007 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

SCHEDULE

"Whether the action of the management of Dhansar Colliery of M/s. BCCL in not regularising Shri Shyamal Chandra Pramanik as Assistant Store Keeper is justified If not, to what relief is the concerned workman entitled?"

2. The case of the concerned workman is that he has been working as permanent workman since long. He is a matriculate and as the management was in need of a Store Keeper due to permanent vacancy, so the than Dy. Chief Minig Engineer issued as Officer order dated 14-11-90 directing him to report for duty at Dhassar/KOCP. In pursuance of the aforesaid office order he reported for his duty and the management considering his educational qualification and immediate requirement had posted him in the Store. Vide order dated 10-6-92 he was directed to work as Store Keeper and to collect materials from Regional Stores, Godhar. Since 1990 the concered workmen started working as Asstt. Store Keeper and in the mean time different office orders were issued by the Project Officer and other competent persons where by and wherein he was authorised to work as Asstt. Store Keeper/Store Keeper. He was also transferred from KOCP Store to Dhansar C.H.P. and he was engaged on Store Job at C.H.P. The concerned workman had represented before the management several times for his regularisation and designation and wages as per performance of job but without any effect. Seeing no other alternative as industrial dispute was raised with the management and a discussion was also held on 17-10-95 where in and wherby the union put the demand of regularisation of the concerned workman as Store Clerk. In spite of the aforesaid fact and in spite of the fact that the concerned workman has been working since long the management as yet has not regularised him in the post of Asstt. Store Keeper and not paying him wages of the Asstt. Store Keeper and paying him wages only of Category-II After exhausting all avenue for amicable settlement the union raised industrial dispute which ended in failure and thereafter the appropriate Govt. referred this dispute to this Tribunal for adjudication. The action of the management in not regularising the concerned workman as Asstt. Store Keeper was neither legal nor justified.

It has been prayed that the Hon'ble Tribunal be pleased to pass an award by directing the management to regularise the concerned workman as Asstt. Store Keeper with retrospective effect.

3. The case of the management is that the concerned workman Shyamal Chandra Pramanik, was appointed under Land Looser Scheme on 6-8-90 and his present designation is Fitter Helper and he was allowed SI.U in Cat. III. He was authorised only to collect the store materials and not in clerical Job. He belongs to other Cadre Scheme and enjoys the promotion/benefit of the said Cadre Scheme. There is

no merit in the claim. Moreover, as and when any vacancy exist and internal circular is issued, he may apply along with others for selection/test to the post of Store Issue Clerk in Clerical Gr. II as per Cadre Scheme formulated by the JBCCI. There is no such policy to allow any regularisation for the above as per stipulation in the Cadre Scheme for Ministerial Staff (Store Personnel Cadre). The claim of the union/workmen is without any basis for regularisation as Asstt. Store Keeper which is promotional post through D. P. C. for those who have put in for 3 years experience as Store Issue Clerk in Grade-III clerk whereas the employee concerned belongs to another cadre and enjoys the SLU in Cat. III. The above issue was never raised by the union at bi-partite discussion in the past. The matter was placed before the Competent Authority at corporate level and the same observation has been made. i.e. the claim for regularisation has no merit. In view of the aforesaid submission the action of the management in not according to the request of the union/workmen is just, fair and quite reasonable as per policy and cadre scheme of the company and, as such, the workmen concerned is not entitled to any relief.

Accordingly, it has been prayed that the Hon'ble Tribunal be pleased to pass the Award holding that the action of the management in not allowing the claim of regularisation of workmen concerned as Asstt. Store Keeper is just, fair and legal and the concerned workmen is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned workmen produced himself as WW-1, Shyamal Chandra Pramanik.

The management produced MW-1 Kumari Kumkum. Management's documents have been marked as Exts. M-1 to M-10.

6. Main argument advanced on behalf of the concerned workman is that he was working with the management as Asstt. Store Keeper since 1990 as per order of the management. But the management is not paying wages and not regularising him as Asstt. Store Keeper though there is order for doing the above job.

7. In this respect the management argued that he cannot be regularised in the post of Asstt. Store Keeper because the Asstt. Store Keeper post is promotional post. As per Cadre Scheme for Ministerial Staff Store Personnel Cadre (Ext. M-3) a person who has worked for 3 years as Store Issue clerk, he can be considered for Asstt. Store Keeper through DPC.

In this respect the workman representative argued that the concerned workmen has worked for more than 3 years but they are not regularising him. It is the duty of the management to promote the concerned workmen as Asstt.

Store Keeper because he has worked for more than 3 years as Store Issue Clerk since 1990. As per Ext. M it shows that the concerned workmen was transferred to Kusunda, Area on 14-11-90 and as per Ext. M-2 order dated 10-6-92 the concerned workmen was directed to collect the materials from Regional Store. As per Ext. M-6 the concerned workmen was authorised to collect store and as per Ext. M-7 the concerned workmen was transferred vide order dated 24/26-6-93 for doing store works to Kusunda colliery and as per Ext. M-8 the concerned workmen was transferred from KOCP store to Dhansar CHP for doing store job at CHP and this discussion order was also considered as per Ext. M-9 for regularising him as Store Clerk, but it has not been done by the management.

8. The management is taking work from the concerned workmen of Asstt. Store Keeper but they are not paying him wages of Asstt. Store Keeper.

In this respect the management's evidence is very much material. MW-1, Kumari Kumkum stated in cross-examination that these documents will show which of the workmen maintains these store issue requisition, maintenance of monthly store cost, store issue report, store inventory and D.T. requisition forms. It is the duty of the Asstt. Store Keeper to maintain the list of non-moving items of the store. It has also been stated by her that from records it is evident that the Headquarter asked the report to give the list of workmen from the management by 8-4-2009 is correct.

9. On behalf of the concerned workmen reference has also been made A.I.R. 1984 page 1683 in which Hon'ble Supreme Court laid down:

"Industrial Disputes Act, 1947, Section 2 (k), 7-A, 10, Schedule 3. Item 7—'Industrial dispute' meaning of—Term of employment' meaning of—employee employer in acting capacity in a grade—Question of their confirmation. Amounts to raising of industrial dispute—Tribunal can decide such dispute—'management function'—meaning of—Change in concept - Case remanded to Tribunal for its disposal on merits."

Another law referred on behalf of the concerned workmen is 1990 Supreme Court Cases (I&S) 174 in which Hon'ble Supreme Court laid down :

"Labour Law—Regularisation Confirmation—Educational qualification—Relevance of—Daily rated workers serving for long with artificial breaks in service—Whether they possessed minimum educational qualification—Question relevant at the stage of appointment but not at the stage of confirmation when workers gained long practical experience."

Also referred 2007 AIR SCW 6904 in which Hon'ble Supreme Court laid down :

"(A) Constitution of India . Arts 16, 14-- Regularisation of service— petitioners were daily wage

employees of Co-operative Electric Supply Society was taken over by Electricity Board—Pursuant to proceeding by Minister of Co-operative, petitioners' services were taken over by Board in the same manner and position—Earlier, Electricity Board had taken decision to regularise services of its daily wage employees who were working from before 4-5-1990—Since petitioners were appointed in Society before 4-5-1990, they cannot be denied benefit of decision of Board permitting regularisation—More so, when they had put in about, 22 years of service.

AIR 1963 SC 647: AIR 1987 SC 1073: 2002 AIR SCW 4939: AIR 2004 SC 4778, Relied on.

(2006) 4 SCC 1, Disting.

(B) Constitution of India Arts. 16,14—Regularisation of service—Uma Devi's case reported in 2006 AIR SCW—1991 cannot be applied mechanically without seeing facts of particular case—said decision cannot be applied to a case where regularisation has been sought for in pursuance of Art.14,

2002 AIR SCW 4939, Relied on.

Cases Referred:

2006 AIR SCW 1991 AIR 2006 SC 1506 : 2006 (3) AIR Kar 370 (Disting) 2004 AIR SCW 5457 : AIR 2004 SC 4778 (Rel.on): 2002 AIR SCW 4939: AIR 2003 SC 511 (Rel.on): AIR 1987 SC 1073 (Rel.on): AIR 1978 SC 597 (Rel.on); (pet. D): (1972) 2 WLR 537: (1971) 1 WLR 1062: 1970 (2) ALL ER 294: AIR 1968 SC 647 (Rel.on): (1951) AC 737: (1901) AC 495 : (1898) AC I.

10. Considering the above facts and circumstances it shows that the management is taking the job of Store Keeper from the concerned workman since 1990 but the management is not regularising him and as per Cadre Scheme he has completed 3 years job of Store Issue Clerk so his demand for regularisation as Asstt. Store Keeper is justified and he is entitled for regularisation as Asstt. Store Keeper from 1990 with difference of wages.

11. In the result, I hold that the action of the management of Dhansar Colliery of M/s. BCCL in not regularising Shri Shyamal Chandra Pramanik as Asstt. Store Keeper is not justified. Hence, the concerned workman is entitled to be regularised as Asstt. Store Keeper from the year 1990.

The management is directed to implement the award within 30 days from the date of publication of the award in Gazette of India.

This is my award

H.M. SINGH, Presiding Officer

नई दिल्ली, 5 जुलाई, 2012

का.आ. 2477-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स टिस्को के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं। धनबाद के पंचाट (संदर्भ संख्या 91 /2006) को प्रकाशित

करती है, जो केन्द्रीय सरकार को 5-07-2012 को प्राप्त हुआ था।

[सं. एल 20012/57/2006 आई आर (सीएम 1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 5th July, 2012

S.O. 2477—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 91/2006) of the Central Government Industrial Tribunal No.1, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of M/s. Tisco Ltd. and their workman, received by the Central Government on 5-7-2012.

[No. L-20012/57/2006-IR (CM-I)]

AJEET KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD**

In the matter of a reference U/s. 10 (1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 91 of 2006

Parties: Employers in relation to the management of M/s. TISCO Ltd.

AND

Their workman

Present: Shri H.M. SINGH, Presiding Officer

Appearances :

For the Employers : Shri D.K. Verma, Advocate

For the Workman : Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union

State: Jharkhand

Industry : Coal

Dated, the 22-6-2012

AWARD

By Order No. L -20012/57/2006-IR (CM-I) dated 11/29/9-2006 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Bhelat and 'A' Colliery of M/s. TISCO in dismissing Shri Bhola Mahato, Miner from the services of the company w.e.f. 12-8-2002 is fair and justified? If not,

2. On 27-4-2012 Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union appearing on behalf of the concerned workman filed a petition and submitted that the concerned workmen is not interested to contest the case.

In view of such submission made on behalf of the concerned workman, I render a 'No dispute' Award in the present reference case.

H.M. SINGH, Presiding Officer

नई दिल्ली, 5 जुलाई, 2012

का.आ. 2478 -औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं 1-धनबाद के पंचाट (संदर्भ संख्या 171/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-07-2012 को प्राप्त हुआ था।

[सं. एल-20012/387/1997-आई आर (सी-I)]
अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 5th July, 2012

S.O. 2478—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 171/2000) of the Central Government Industrial Tribunal-cum-Labour Court, No.1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CCL and their workman, which was received by the Central Government on 5-7-2012.

[No. L-20012/387/1997-IR (C-I)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10 (1) (d) (2A) of the Industrial Dispute Act, 1947

Reference No. 171 of 2000

Parties:

Employers in relation to the management of M/s. C.C.L.

AND

Their workmen

PRESENT: Shri H.M. SINGH, Presiding Officer

APPEARANCES :

For the employers : Shri D.K. Verma, Advocate

For the workman : Shri B.B. Pandey, Advocate

State: Jharkhand Industry : Coal

Dated, the 18-6-2012

AWARD

By Order No. L-20012/387/1997-IR (C-I) dated 30-5-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

“whether the action of the management of Jharkhand Project of C.C.L. P.O. Laiya, Dist. Hazaribagh is denial of payment of wages to the workmen concerned (as per list enclosed) as per the fitment chart, submitted by the union

is justified ? If not, to what relief the workmen are entitled?”

“whether the demand of the union from the management of Jharkhand Project of CCL for payment of difference of wages to the workers concerned w.e.f. the date of their regularisation from piece-rated category to time rated category is justified ? If so, to what relief the workmen are entitled ?”

2. On 18-4-2012 Shri B.B. Pandey, Advocate, appearing on behalf of the workmen by filing a petition submitted that the workmen/union is not interested to contest the case further.

In view of such submission made on behalf of the workmen /union , I render a ‘ No Dispute’ Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 5 जुलाई, 2012

का.आ. 2479 -औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं 1, धनबाद के पंचाट (संदर्भ संख्या 50/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-07-2012 को प्राप्त हुआ था।

[सं. एल-20012/80/2008 आई आर (सीएम-1)]

अजीत कुमार, अनुभाग अधिकारी

New Delhi, the 5th July, 2012

S.O. 2479—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/2008) of the Central Government Industrial Tribunal-cum-Labour Court, No.1, Dhanbad as shown in the Annexure in the Industrial Dispute between management of Lodna Coke Plant of M/s. BCCL and their workman, received by the Central Government on 5-7-2012.

[No. L-20012/80/2008-IR (CM-I)]

AJEET KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10 (1) (d) (2A) of the Industrial Disputes Act 1947.

Reference No. 50 of 2008

Parties:

Employers in relation to the management of Lodna Coke Plant of M/s. B.C.C.L.

AND

Their workman

PRESENT: Shri H.M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : Shri S.N. Ghosh, Advocate
 For the Workman : None
 State: Jharkhand Industry : Coal
 Dated, the 22nd June, 2012

AWARD

By Order No. L -20012/80/2008-IR (CM-I) dated 14-10-2008 the Central Government in the Ministry of Labour has in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

“whether the action of the management of Lodna Coke Plant of M/s. BCCL in not regularising the services of S/Shri Ram Gulam Chamar, Kapilde Bhuria, Anwar and Bihari Prasad as Security Guards is justified and legal? To what relief are the concerned workmen entitled and from what date ?”

2. In this reference case since long none is appearing on behalf of the concerned workman. Even after registered notice none is present on behalf of the concerned workman / union to take any step. It therefore, appears that neither the concerned workmen nor the union are interested to contest the case further.

In such circumstances, I render a ‘No Dispute’ Award in the present case.

H.M. SINGH, Presiding Officer

नई दिल्ली, 5 जुलाई, 2012

का.आ. 2480—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एयर इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के सीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 2, मुम्बई के पंचाट (सीजोआइंटी संख्या 2/27 ऑफ 2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-7-2012 को प्राप्त हुआ था।

[सं. एल-11012/10/2011-आई आर (सी-1)]

अज्जीत कुमार, अनुभाग अधिकारी

New Delhi, the 6th July, 2012

S.O. 2480—In pursuance of Section 17 o. the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-2/27of 2011) of the Central Government Industrial Tribunal-cum- Labour Court, No. II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Air India Ltd. and their workman, which was received by the Central Government on 5-7-2012.

[No. L-11012/10/2011-IR (C-I)]

AJEEET KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II MUMBAI**

PRESENT: K.B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/27 OF 2011

**EMPLOYERS IN RELATION TO THE
MANAGEMENT OF AIR INDIA LTD.**

Ms. Meenakshi Kashyap
 AGM-IR,
 Air India Ltd.
 Mumbai -400021.

AND

Their Workmen,
 Shri A. R. Joshi,
 Row House No. 21
 Godai Nagar,
 Chakan Road,
 Opp. Hotel Aishwarya
 Telegaon Dabhade
 MS.

APPEARANCES:

For the Employer : Mr. L. L. D'Souza
 Representative.
 For the workman : In person.

Mumbai dated, the 30th May , 2012

AWARD PART-II

The Government of India, Ministry of Labour & Employment by its Order No. L-11012/10/2011-IR (CM-I), dated 29-3-2010 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act., 1947 have referred the following industrial disputes to this Tribunal for adjudication:—

“whether the dismissal of Shri Anil Rajaram Joshi, by order dated 6th December, 1996 is legal and justified ? If not, to what relief Shri Joshi is entitled to ?”

2. In this reference part-I Award was passed on 29-2-2012 on the point of inquiry where in the enquiry was held fair and proper and the findings of the inquiry committee was declared not perverse.

3. Now in this part-II award the issues before me are as follows:

Issues	Findings
3. Whether the punishment imposed by the management is disproportionate to the proved misconduct?	Yes.

3. Whether the punishment imposed by the management is disproportionate to the proved misconduct?

4.	If yes, what relief workman is entitled to ?	As per final order
5.	What order?	As per final order

Issues nos. 3&4:

4. In the case at hand, the Ld adv. for the party management submitted that the second party workman has instigated the workers to join the strike who had come to attend their duties. Therefore the Ld. Adv. submitted that the punishment of termination of service to such mischief is quite proportionate and appropriate. He further submitted that the misconduct has been proved. There-fore the Tribunal cannot take any lenient view in respect of the punishment. In support of his argument the Ld. Adv. resorted to the Apex Court ruling in India General Navigation and Railway Co. Ltd. & Anr. V/s. Their workmen wherein in respect of the workman who had joined the illegal strike and obstructed the orders the Hon'ble Court and observed that:

"The punishment of dismissal or termination of services has therefore, to be impose on such workman as had not only participated in the illegal strike, but had fromented it, and had been guilty of violence or doing act detrimental to maintenance of law and order in the locality where work had to be carried on."

5. In the light of these observations the Ld. Adv. for the first party management submitted that in the case at hand the workman was charge-sheeted for instigating the co-workmen to go on strike and causing obstruction in the smooth working of the company.

6. In this respect I would like to point out that, in part-I award the second party has not led any evidence. He mainly relied upon the judgment in approval application decided by National Industrial Tribunal and findings given therein. According to him the National Industrial Tribunal has rejected the approval application and had held that inquiry was not fair and proper. However, the said judgments and findings in the said approval application cannot be considered as the approval application was held infructuous as National Industrial Tribunal held that Air India was not party in the Ref. No. NTB 1/1990. It seems that the second party workman was under the impression that the findings in the judgment of Approval Application can be considered in this reference. Therefore, it seems that he has not led any evidence.

7. Furthermore I would like to point out that the second party workman has not engaged any advocate or defence representative to plead and argue his case. Furthermore I would also like to point out that long back the workman herein has already reached to the age of superannuation. There was no charge against the workman herein either joining the strike or for taking part in any incidence of violence. The Charges against him are that

the has instigated some other workers not to go to work and had instigated them to join the strike. In the above cited Apex Court ruling the workmen therein have not only joined the illegal strike, but have also taken part in the acts of violence. In the circumstances, Hon'ble Apex Court held that the punishment of dismissal or termination was appropriate punishment. In this backdrop the ratio laid down in the above ruling is not attracted to the set of facts of the case in hand. On the other hand the workman herein had neither joined the strike nor taken part in any act of violence. Long back he had attained the age of spuerannuation. In the part-I award he has not engaged any defence representative or advocate and has also not led any oral or documentary evidence as has been observed above. In the circumstances, in my opinion, the charge of instigating some workers to join the strike is not sufficient to impose the extreme punishment of dismissal or termination of service.

8. In the peculiar circumstances of this case, I think it proper that the punishment of termination of service of the second party is quite disproportionate to the proved misconduct. Instead of that in my opinion to meet the ends of justice, the punishment of compulsory retirement with all pensionary benefits would suffice the purpose. Thus, I decide this issue No.3 in the affirmative & issue No. 4 is decided accordingly. Hence the order:

ORDER

Reference is partly allowed as follows
with no order as to cost.

The punishment of termination of
services of Mr. Anil R. Joshi is hereby
set aside being grossly disproportionate.
Instead of that, he be treated as retired
compulsorily from the date of his
termination with all pensionary benefits
including amount of gratuity, leave salary etc.
till the date he was in service. He is entitled to
the pension with up-to-date arrears.

Date: 30-5-2012

K.B. KATAKE, Presiding Officer

नई दिल्ली, 6 जुलाई, 2012

का.आ. 2481-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ऐसर्स ई सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अनंसोल के पंचाट (संदर्भ संख्या 33/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-07-2012 को प्राप्त हुआ था।

[सं. एल-22012/27/2008-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 6th July, 2012

S.O.2481 —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol now as shown in the Annexure in the Industrial Dispute between the management of M/s. ECL and their workmen, received by the Central Government on 6-7-2012.

[No. L-22012/27/2008-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM-LABOUR-COURT, ASANSOL

Present: SHRI JAYANTA KUMAR SEN, Presiding Officer
REFERENCE NO. 33 OF 2008

Parties: The Vice-President, K.M.C., Andal (West Bengal)
Vs.

The Agent, I & 2 Incline, Jhanjra Area, ECL

Representatives :

For the Management : None

For the Union (Workman) : Shri P.C. Pandey, Ltd.
Representative

Industry : Coal State: West Bengal

Dated, the 16 May, 2012

AWARD

In exercise of powers conferred by clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its letter No. L-22012/27/2008-IR (CM-II) dated 19-06-2008 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of ECL in dismissing Shri Anil Dhangar from service w.e.f. 18-6-2003 is legal and justified? To what relief is the workman entitled?”

Having received the Order of Letter No. L-22012/27/2008-IR(CM-II) dated 19-06-2008 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 33 of 2008 was registered on 1-07-2008 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri P.C. Pandey, representative of the Union, submits that the case may be closed as the workman does not want to proceed with the case. Since the workman neither appears nor takes any step in this case. I find no longer the Industrial Dispute exists. So the case is closed and accordingly an order of “No Dispute” is hereby passed.

ORDER

Let an "Award" be and the same is passed as no dispute existing. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 6 जुलाई, 2012

का.आ. 2482-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैं ई सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असंसोल के पंचाट (संदर्भ संख्या 94/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-07-2012 को प्राप्त हुआ था।

[सं. एल-22012/424/1998 आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 6th July, 2012

S.O. 2482—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 94/1999) of the Central Government Industrial Tribunal/-cum-Labour Court, Asansol now as shown in the Annexure in the Industrial Dispute between the management of Modern Satgram Colliery, E.C.L. and their workmen, received by the Central Government on 6-7-2012.

[No. L-22012/424/1998-IR (C-I)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR-COURT, ASANSOL

Present: SHRI JAYANTA KUMAR SEN, Presiding Officer
Reference No. 94 of 1999

Parties: The Asstt. Gen. Secretary, K.M.C., Asansol
(West Bengal)

Vs.

The Agent, Modern Satgram Colliery, ECL

Representatives :

For the Management : Shri P.K. Das, I.d. Advocate

For the Union (Workmen) : Shri S.K. Pandey, Ltd.
Representative

Industry : Coal

State: West Bengal

Dated, 15 May, 2012

AWARD

In exercise of powers conferred by clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Government of India through the Ministry of Labour vide its letter No. L-22012/424/1998-IR(CM-II) dated 9-07-1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Satgram Project in not regularising the services of Shri Bachan Singh and two others (list enclosed) in the post of Lamp Issue Clerk (Clerical Grade) is justified? If not, to what relief Shri Bachan Singh and two others are entitled?”

Having received the Order of Letter No. L-22012/424/98-IR(CM-II) dated 09-07-92 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 94 of 1999 was registered on 23-07-99 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri S.K. Pandey, submits that all the three workmen in question have been retired from service on superannuation and have now no interest to proceed with the case. As such I find no longer the Industrial Dispute exists. So the case is closed and accordingly an order of “No Dispute” is hereby passed.

ORDER

Let an “Award” be and the same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 6 जुलाई, 2012

का.आ.2483 - औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. इसी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय आसनसोल के पंचाट (संदर्भ संख्या 02/2006) को प्रकाशित करती है; जो केन्द्रीय सरकार को 6-07-2012 को प्राप्त हुआ था।

[सं. एल-22012/459/2004-आई आर (सीएम-II)]
बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 6th July, 2012

S.O. 2483—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 02/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Central Kajora Colliery of M/s. ECL and their workmen, received by the Central Government on 6-7-2012.

[No. L-22012/459/2004-IR (CM-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

Present: SHRI JAYANTA KUMAR SEN, Presiding Officer

Reference No. 02 of 2006

Parties: The General Secretary, K.M.C., Asansol (West Bengal)

Vs.

The Agent, Central Kajora Colliery, ECL, Burdwan

Representatives:

For the Management : None

For the Union (Workman) : Shri Rakesh Kumar Ltd.
Representative

Industry : Coal State : West Bengal

Dated, the 16th May, 2012

AWARD

In exercise of powers conferred by clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947). Government of India through the Ministry of Labour vide its letter No. L-22012/459/2004-IR(CM-II) dated 14-02-2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Central Kajora Colliery of M/s. Eastern Coalfields Limited in dismissing of Sh. Salem Bouri Driller from services w.e.f. 27-2-1999 is legal and justified ? If not, to what relief the concerned workman is entitled?”

Having received the Order of Letter No. L-22012/459/2004-IR(CM-II) dated 14-2-2006 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 02 of 2006 was registered on 24-02-2006 and

accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri Rakesh Kumar Ltd. Representative of the Union, submits that the case may be closed as the workman has already joined the service and is no more interested to proceed with the case. I find no longer the Industrial Dispute exists. So the case is closed and accordingly an order of "No Dispute" is hereby passed.

ORDER

Let an "Award" be and the same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Office

नई दिल्ली, 6 जुलाई, 2012

का.आ. 2484 -औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स इ सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 29/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-07-2012 को प्राप्त हुआ था।

[सं. एल-22012/23/2008-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 6th July, 2012

S.O. 2484—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 29/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 6-7-2012.

[No. L-22012/23/2008-IR (CM-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM-LABOUR COURT, ASANSOL

Present: SHRI JAYANTA KUMAR SEN, Presiding Officer

REFERENCE NO. 29 of 2008

Parties: The Vice-President K.M.C. Andal (West Bengal)

Vs.

The Agent, MIC Jhanjra, Jhanjra Area, ECL, Burdwan
Representatives :

For the Management : None

For the Union (Workman) : Shri P.C.Pandey, Ld.
Representative

Industry : Coal State: West Bengal

Dated, 16-5-2012

AWARD

In exercise of powers conferred by clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/23/2008-IR (CM-II) dated 19-06-2008 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of M/s. ECL in dismissing Shri Nari Goura w.e.f. 8-10-2002 is legal and justified ? To what relief is the workman entitled?"

Having received the Order of Letter No. L-22012/23/2008-IR (CM-II) dated 19-6-2008 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 29 of 2008 was registered on 1-7-2008 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri P.C. Pandey, Representative of the Union, submits that the case may be closed as the workman is no more interested to proceed with the case. Since the workman neither appears nor takes any step to file written statement, I find no longer the Industrial Dispute exists. So the case is closed and accordingly an order of "No Dispute" is hereby passed.

ORDER

Let an "Award" be and the same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 6 जुलाई, 2012

का.आ. 2485—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय आसनसोल के पंचाट (संदर्भ संख्या 73/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-07-2012 को प्राप्त हुआ था।

[सं. एल-22012/295/2005-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 6th July, 2012

S. O 2485.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 73/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of M/s. Eastern Coalfields Limited and their workman, which was received by the Central Government on 6-7-2012.

[No. L-22012/295/2005-IR(CM-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM-LABOUR-COURT ASANSOL.

PRESENT: Shri JAYANTA KUMAR SEN, Presiding Officer

REFERENCE NO. 73 OF 2006

PARTIES: The General Secretary, K.M.C. Asansol (West Bengal)

Vs.

The Agent, Siduly Colliery, ECL, Burdwan.

Representatives :

For the management : None

For the union (Workman) : Shri S.K. Pandey, Ld.

Representative

Industry : Coal

State: West Bengal

Dated, 7-6-2012

AWARD

In exercise of powers conferred by clause (d) of sub- section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/295/2005-IR(CM-II) dated 6-10-2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Siduly Colliery under Kenda Area of M/s. Eastern Coalfields

Limited in dismissing Shri Lutlu Das, U. G. L. w.c.f. 19-7-2004 is legal and justified ? If not, to what relief the workman is entitled?”

Having received the Order of Letter No.L-22012/295/2005-IR(CM-II) dated 6-10-2006 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 73 of 2006 was registered on 31-10-2006 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri S.K. Pandey Ld. Representative of the Union, submits that the case may be closed as the workman has already joined the service and is no more interested to proceed with the case. I find no longer the Industrial Dispute exists. So the case is closed and accordingly an order of “No Dispute” is hereby passed.

ORDER

Let an “Award” be and the same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 6 जुलाई, 2012

का.आ. 2486—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय आसनसोल के पंचाट (संदर्भ संख्या 32/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-07-2012 को प्राप्त हुआ था।

[सं. एल 22012/26/2008 आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 6th July, 2012

S.O. 2486—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 32/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Jhanjra Area of M/s. ECL and their workmen, which was received by the Central Government on 6-7-2012.

[No. L-22012/26/2008-IR(CM-II)]

B.M. PATNAIK, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM-LABOUR COURT,
ASANSOL**

PRESENT: Shri Jayanta Kumar Sen, Presiding Officer
REFERENCE NO. 32 OF 2008

PARTIES: The Vice-President, K.M.C. Andal (W. B)
Vs.

The Agent, 3 & 4 Incline, Jhanjra Area, ECL
REPRESENTATIVES:

For the Management : None

For the Union (Workmen) : Shri P.C. Pandey, L.d.
Representative

Industry : Coal State: West Bengal

Dated, the 16-5-2012

AWARD

In exercise of powers conferred by clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. I-22012/26/2008- IR(CM-II) dated 19-06-2008 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of M/s. ECI, in dismissing Shri Sudhir Bhuria from service w.e. f.

20-9-2004 is legal and justified? To what relief is the workman entitled?"

Having received the Order of Letter No. L-22012/26/2008- IR(CM-II) dated 19-6-2008 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 32 of 2008 was registered on 1.07.2008 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri P.C. Pandey, Representative of the Union, submits that the case may be closed as the workman is no more interested to proceed with the case. Since the workman neither appears nor takes any step in this case, I find no longer the Industrial Dispute exists. So the case is closed and accordingly an order of "No Dispute" is hereby passed.

ORDER

Let an "Award" be and the same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 11 जुलाई, 2012

का.आ. 2487 - कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा द्वारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 अगस्त, 2012 को उस तारीख के रूप में नियत करती है जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उप-धारा-(1) और धारा-77, 78,79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध पंजाब राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अथवा-

क्रम सं.	ग्राम का नाम	हदबस्त संख्या	तहसील	जिला
(1)	(2)	(3)	(4)	(5)
1.	दोसांझ खुर्द	218	फिल्लौर	जालन्धर
2.	मंसर पुर	217	फिल्लौर	जालन्धर
3.	पंज धेरण	132	फिल्लौर	जालन्धर
4.	अति	216	फिल्लौर	जालन्धर
5.	सैफाबाद	136	फिल्लौर	जालन्धर
6.	बिक्क	242	फिल्लौर	जालन्धर
7.	गौन्सपुर	73	फगवाड़ा	कपूरथला
8.	धक् पलाही	61	फगवाड़ा	कपूरथला
9.	बचरे	77	तरन तारन	तरन तारन
10.	पंडोरी रन सिंह	51	तरन तारन	तरन तारन

(1)	(2)	(3)	(4)	(5)
11.	वरपाल	266	जड़ियाला गुरु	अमृतसर
12.	गोहत्तल	53	तरन तारन	तरन तारन
13.	सुजानपुर	229	पठान कोट	पठान कोट
14.	गंदण लहरी	345	सुजानपुर	पठान कोट
15.	काले चक्र	231	पठान कोट	पठान कोट
16.	शाहपुर	258	जालन्धर	जालन्धर
17.	प्रताप पुरा	263	जालन्धर	जालन्धर
18.	खाम्ब्र	295	जालन्धर	जालन्धर
19.	सुफि पिंड	238	जालन्धर	जालन्धर
20.	नंगल शहीदा	295	होशियारपुर	होशियारपुर
21.	छौनी कलां (राम कलोनी कैम्प)	348	होशियारपुर	होशियारपुर
22.	बूथगढ़	347	होशियारपुर	होशियारपुर
23.	बोहन	295	होशियारपुर	होशियारपुर
24.	अदाम्बल	370	होशियारपुर	होशियारपुर
25.	इख्लासपुर	374	होशियारपुर	होशियारपुर
26.	हदाँ खानपुर	224	होशियारपुर	होशियारपुर
27.	भागोवाल	379	होशियारपुर	होशियारपुर
28.	बस्सी मरूस सिअला	381	होशियारपुर	होशियारपुर
29.	खानपुर	239	होशियारपुर	होशियारपुर
30.	ककों	375	होशियारपुर	होशियारपुर
31.	खाकली	383	होशियारपुर	होशियारपुर

[सं. एस-38013/23/2012-एस. एस. -1]

नरेश जायसवाल, अवर सचिव

New Delhi, 11th July, 2012

S. O.2487—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 01 August, 2012 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Punjab namely:

Sr. No.	Name of the Village	Habdist No.	Tehsil	District
(1)	(2)	(3)	(4)	(5)
1.	Dosanjh Khurd	218	Phillaur	Jalandhar
2.	Mansurpur	217	Phillaur	Jalandhar
3.	Panj Dheran	132	Phillaur	Jalandhar
4.	Atti	216	Phillaur	Jalandhar
5.	Saifabad	136	Phillaur	Jalandhar
6.	Birk	242	Phillaur	Jalandhar

(1)	(2)	(3)	(4)	(5)
7.	Gaunspur	73	Phagwara	Kapurthala
8.	Dhak Palahi	61	Phagwara	Kapurthala
9.	Bachre	77	Taran Tarn	Taran Tarn
10.	Pandori Ran Singh	51	Taran Tarn	Taran Tarn
11.	Varpal	266	Jandiala Guru	Amritsar
12.	Gohalwal	53	Taran Tarn	Taran Tarn
13.	Sujanpur	229	Pathankot	Pathankot
14.	Gandran Lahri	345	Sujanpur	Pathankot
15.	Kale Chak	231	Pathankot	Pathankot
16.	Shahpur	258	Jalandhar	Jalandhar
17.	Pratap Pura	263	Jalandhar	Jalandhar
18.	Khambra	295	Jalandhar	Jalandhar
19.	Sufipind	238	Jalandhar	Jalandhar
20.	Nangal Shaheeda	295	Hoshiarpur	Hoshiarpur
21.	Chhauni Kalan (Ram Colony Camp)	348	Hoshiarpur	Hoshiarpur
22.	Boothgarh	347	Hoshiarpur	Hoshiarpur
23.	Bohan	295	Hoshiarpur	Hoshiarpur
24.	Adamwal	370	Hoshiarpur	Hoshiarpur
25.	Ikhlaspur	374	Hoshiarpur	Hoshiarpur
26.	Hardo Khanpur	224	Hoshiarpur	Hoshiarpur
27.	Bhagowal	379	Hoshiarpur	Hoshiarpur
28.	Bassi Marus Siala	381	Hoshiarpur	Hoshiarpur
29.	Khanpur	239	Hoshiarpur	Hoshiarpur
30.	Kakon	375	Hoshiarpur	Hoshiarpur
31.	Khakli	383	Hoshiarpur	Hoshiarpur

[No. S-38013/23/2012-S.S.-I]

NARESH JAISWAL, Under Secy.